

By

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S.B.

9

A BILL TO BE ENTITLED

AN ACT

relating to abolishing the State Purchasing and General Services Commission and creating the General Services Department; to transferring responsibility for architectural barriers programs from the commission to the Texas Department of Licensing and Regulation; to transferring responsibility for personal property accounting from the commission to the comptroller; to travel regulations for state government; to establishing a Texas Office of Personnel Services within the Texas Employment Commission; and to the acquisition and use by the state and by other governmental entities of property and services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

PART 1. CREATION AND ADMINISTRATION OF GENERAL SERVICES DEPARTMENT

SECTION 1.01. Title 20, Revised Statutes, is amended by adding Article 601k to read as follows:

Art. 601k. GENERAL SERVICES DEPARTMENT

Sec. 1. DEFINITIONS. In this article:

(1) "Board" means the governing board of the department.

(2) "Department" means the General Services Department.

(3) "Director" means the executive director of the department.

1 Sec. 2. DEPARTMENT. The General Services Department is an
2 agency of the state.

3 Sec. 3. APPLICATION OF SUNSET ACT. The General Services
4 Department is subject to Chapter 325, Government Code (Texas Sunset
5 Act). Unless continued in existence as provided by that chapter,
6 the department is abolished and this article expires September 1,
7 1993.

8 Sec. 4. COMPOSITION OF GOVERNING BOARD. (a) The governing
9 board of the department is the Board of General Services. The
10 board is composed of six members.

11 (b) The members of the board are appointed by the governor
12 with the advice and consent of the senate for staggered terms of
13 six years with two members' terms expiring February 1 of each
14 odd-numbered year.

15 (c) Appointments to the board shall be made without regard
16 to the race, color, handicap, sex, religion, age, or national
17 origin of the appointees.

18 Sec. 5. REMOVAL OF BOARD MEMBERS. (a) It is a ground for
19 removal from the board if a member:

20 (1) violates a prohibition established by Section 6 of
21 this article;

22 (2) cannot discharge the member's duties for a
23 substantial part of the term for which the member is appointed
24 because of illness or disability; or

25 (3) is absent from more than half of the regularly
26 scheduled board meetings that the member is eligible to attend
27 during a calendar year unless the absence is excused by majority

1 vote of the board.

2 (b) The validity of an action of the board is not affected
3 by the fact that it is taken when a ground for removal of a board
4 member exists.

5 (c) If the director has knowledge that a potential ground
6 for removal exists, the director shall notify the presiding officer
7 of the board of the ground. The presiding officer shall then
8 notify the governor that a potential ground for removal exists.

9 Sec. 6. CONFLICT OF INTEREST. (a) A member of the board or
10 a director or employee of the department may not:

11 (1) be an officer, employee, or paid consultant of a
12 business entity that contracts with the state;

13 (2) directly own, control, or have any interest in a
14 business entity that contracts with the state;

15 (3) have a direct financial interest in a contract or
16 bid for furnishing a state agency with goods or services; or

17 (4) accept or solicit any gift, favor, or service that
18 would reasonably tend to influence the person in the discharge of
19 official duties or that the person knows or should know is being
20 offered with the intent to influence official conduct.

21 (b) An officer, employee, or paid consultant of a business
22 entity or a trade association of business entities that contracts
23 with any agency of the state or that bids for furnishing supplies,
24 services, or equipment of any kind to any agency of the state may
25 not be a member of the board or the director or an employee of the
26 department.

27 (c) A person who is the spouse of an officer, manager, or

1 paid consultant of a trade association of business entities that
2 contracts with any agency of the state or that bids for furnishing
3 supplies, services, or equipment of any kind to any agency of the
4 state may not be a member of the board or the director or an
5 employee of the department.

6 (d) For the purposes of this section, a trade association is
7 a nonprofit, cooperative, and voluntarily joined association of
8 business or professional competitors designed to assist its members
9 and its industry or profession in dealing with mutual business or
10 professional problems and in promoting their common interest.

11 (e) A person may not be a member of the board or the
12 director or an employee of the department if the person is required
13 to register as a lobbyist under Chapter 305, Government Code,
14 because of the person's activities for compensation on behalf of a
15 business entity that has an interest in a contract with the state
16 or a profession related to the operation of the department.

17 Sec. 7. OFFICERS; COMPENSATION; MEETINGS. (a) The governor
18 designates the presiding officer of the board. The board shall
19 elect from among its members an assistant presiding officer and a
20 secretary.

21 (b) The board shall meet at least quarterly.

22 (c) A member of the board may not receive compensation for
23 service on the board. A member is entitled to receive
24 reimbursement, subject to any applicable limitation on
25 reimbursement provided by the General Appropriations Act, for
26 actual and necessary expenses incurred in performing services as a
27 member of the board.

1 (d) The board shall develop and implement policies that
2 provide the public with a reasonable opportunity to appear before
3 the board and to speak on any issue under the jurisdiction of the
4 board.

5 Sec. 8. GENERAL POWERS AND DUTIES. (a) The board may adopt
6 rules for its internal management and control.

7 (b) The board shall perform the duties assigned to the
8 department under this article or other law.

9 (c) The board possesses the powers and shall perform the
10 duties assigned by law to the State Purchasing and General Services
11 Commission or its predecessors in function.

12 (d) The board shall report to the governor annually and to
13 the legislature at each regular session on the department's
14 activities. The board may make recommendations in those reports on
15 matters under its jurisdiction. The board shall recommend
16 amendments to current law that would result in increased
17 effectiveness, efficiency, or economy in the areas under its
18 jurisdiction. The board may make other reports in its discretion.

19 (e) The board may appoint advisory committees to assist it
20 in the performance of its duties. A member of an advisory
21 committee appointed by the board may not receive compensation for
22 service on the advisory committee. A member appointed under this
23 article is entitled to receive reimbursement, subject to any
24 applicable limitation on reimbursement provided by the General
25 Appropriations Act, for actual and necessary expenses incurred in
26 performing services as a member of the advisory committee.

27 Sec. 9. DIRECTOR; DIVISION OF DEPARTMENTAL DUTIES. (a) The

1 governor with the advice and consent of the senate shall appoint
2 the executive director of the department. The director serves for
3 a two-year term that expires February 1 of each odd-numbered year.
4 The director shall execute a bond payable to the state in an amount
5 set by the members of the board conditioned on the faithful
6 performance of the duties of the office. Premiums for the bond are
7 payable from appropriations to the department. The director must
8 have demonstrated executive and organizational ability.

9 (b) The director shall manage the affairs of the department.
10 The director shall establish divisions and positions within the
11 department that the director considers necessary to perform the
12 department's duties.

13 (c) The director shall provide administrative support to the
14 members of the board that is necessary for the performance of the
15 functions of the members.

16 (d) The members of the board shall establish policy, adopt
17 rules that the board may adopt under law, evaluate the
18 implementation of new legislation that affects the department's
19 duties, review and comment on the department's budget, prepare an
20 annual report of the department's activities, conduct
21 investigations and studies, and develop long-range plans for the
22 future goals and needs of the department. The members of the board
23 may not be involved in the daily operation of the department. The
24 board may delegate to the director the duties of the board under
25 this article and other law that are not covered by the description
26 of the members' duties under this subsection.

27 Sec. 10. PERSONNEL. (a) The director shall employ

1 personnel necessary for the performance of department functions.
2 In addition to other personnel, the director shall employ a human
3 rights officer and an internal auditor. The internal auditor shall
4 report directly to the governor.

5 (b) The director shall provide to board members and
6 department employees, as often as necessary, information regarding
7 their qualifications for office or employment under this article
8 and their responsibilities under applicable laws relating to
9 standards of conduct for state officers or employees.

10 (c) The board and director shall jointly develop and
11 implement policies that clearly define the respective
12 responsibilities of the members of the board and the director and
13 staff of the department in accordance with this article.

14 (d) The director or the director's designee shall develop an
15 intra-agency career ladder program. The program shall require
16 intra-agency postings of all nonentry level positions concurrently
17 with any public posting.

18 (e) The director or the director's designee shall develop a
19 system of annual performance evaluations. All merit pay for
20 department employees must be based on the system established under
21 this subsection.

22 (f) The director or the director's designee shall prepare
23 and maintain a written policy statement to assure implementation of
24 a program of equal employment opportunity under which all personnel
25 transactions are made without regard to race, color, handicap, sex,
26 religion, age, or national origin. The policy statement must
27 include:

1 (1) personnel policies, including policies relating to
2 recruitment, evaluation, selection, appointment, training, and
3 promotion of personnel;

4 (2) a comprehensive analysis of the department work
5 force that meets federal and state guidelines;

6 (3) procedures by which a determination can be made of
7 significant underuse in the department work force of all persons
8 for whom federal or state guidelines encourage a more equitable
9 balance; and

10 (4) reasonable methods to appropriately address those
11 areas of significant underuse.

12 (g) A policy statement prepared under Subsection (f) of this
13 section must cover an annual period, be updated at least annually,
14 and be filed with the governor's office.

15 (h) The governor's office shall deliver a biennial report to
16 the legislature based on the information received under Subsection
17 (g) of this section. The report may be made separately or as a
18 part of other biennial reports made to the legislature.

19 Sec. 11. FISCAL REPORT. The department shall file annually
20 with the governor and the presiding officer of each house of the
21 legislature a complete and detailed written report accounting for
22 all funds received and disbursed by the department during the
23 preceding fiscal year. The annual report must be in the form and
24 reported in the time provided by the General Appropriations Act.

25 Sec. 12. PUBLIC INTEREST INFORMATION AND COMPLAINTS.
26 (a) The department shall prepare information of public interest
27 describing the functions of the department and the department's

1 procedures by which complaints are filed with and resolved by the
2 department. The department shall make the information available to
3 the public and appropriate state agencies.

4 (b) The department shall keep an information file about each
5 complaint filed with the department that the department has
6 authority to resolve. If a written complaint is filed with the
7 department that the department has authority to resolve, the
8 department, at least quarterly and until final disposition of the
9 complaint, shall notify the parties to the complaint of the status
10 of the complaint unless the notice would jeopardize an undercover
11 investigation.

12 (c) The department shall prepare and maintain a written plan
13 that describes how a person who does not speak English or who has a
14 physical, mental, or developmental disability can be provided
15 reasonable access to the department's programs.

16 PART 2. DEPARTMENT FUNCTIONS UNDER STATE PURCHASING
17 AND GENERAL SERVICES ACT

18 SECTION 2.01. Section 1.02(1), State Purchasing and General
19 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
20 amended to read as follows:

21 (1) "Commission" means the [State--Purchasing--and]
22 General Services Department [Commission].

23 SECTION 2.02. Section 1.03, State Purchasing and General
24 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
25 added by Chapter 677, Acts of the 72nd Legislature, Regular
26 Session, 1991, is amended by adding Subsections (e) and (f) to read
27 as follows:

1 (e) The commission shall appoint an advisory committee with
2 at least three members composed of owners of disadvantaged
3 businesses. A committee member serves at the will of the
4 commission. A committee member may not receive compensation for
5 service on the committee but is entitled to reimbursement for
6 actual and necessary expenses incurred in performing functions as a
7 member of the committee. The committee, in coordination with the
8 Department of Commerce Office of Minority Business Development,
9 shall study the commission's rules and procedures that relate to
10 bidding, purchasing, and contracting with the state in general.
11 The committee shall recommend changes in law to the legislature and
12 changes in rules to the commission that are necessary to facilitate
13 the participation of disadvantaged businesses in state contracting.
14 The commission shall issue a report outlining such recommendations
15 and outlining the results of efforts undertaken by the commission
16 under this section and Sections 3.10(b) and 5.36 of this Act. The
17 report shall be submitted to the governor and to the presiding
18 officer of each house of the legislature prior to January 1, 1993.

19 (f) This section and Sections 3.10(b) and 5.36 of this Act
20 do not exempt the commission from competitive procurement
21 requirements provided by law.

22 SECTION 2.03. Section 3.01(c), State Purchasing and General
23 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
24 amended to read as follows:

25 (c) "Services," as used in this article, means the
26 furnishing of skilled or unskilled labor or professional work but
27 does not include:

1 (1) professional services covered by the Professional
2 Services Procurement Act (Article 664-4, Vernon's Texas Civil
3 Statutes);

4 (2) services of an employee of a state agency;

5 (3) [~~consulting--services--or--services--of--a-private~~
6 ~~consultant-as-defined-by-Chapter-454, Acts-of-the-65th-Legislature,~~
7 ~~Regular-Session,--1977--(Article--6252-11c,--Vernon's--Texas--Civil~~
8 ~~Statutes),--or~~

9 [~~4~~] services of public utilities; or

10 (4) services to which Article 601i or 601j, Revised
11 Statutes, applies.

12 SECTION 2.04. Article 3, State Purchasing and General
13 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
14 amended by adding Section 3.012 to read as follows:

15 Sec. 3.012. PRIORITIES. The commission to the extent
16 possible shall focus its efforts under this article on purchases
17 and contracts that involve relatively large amounts of money.

18 SECTION 2.05. Section 3.022(f), State Purchasing and General
19 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
20 amended to read as follows:

21 (f) The commission shall make a written award of a purchase
22 or lease to the offeror whose proposal is the most advantageous to
23 the state, considering price and the evaluation factors in the
24 request for proposals, except that if the commission finds that
25 none of the offers is acceptable, it shall refuse all offers. In
26 determining which proposal is most advantageous to the state, the
27 commission shall consider factors such as installation costs, the

1 overall life of the system or equipment, the cost of acquisition,
2 operation, and maintenance of hardware included with, associated
3 with, or required for the system or equipment during the state's
4 ownership or lease, and the cost of acquisition, operation, and
5 maintenance of software included with, associated with, or required
6 for the system or equipment during the state's ownership or lease.
7 ~~[The--commission--may--not--use--any--other--factors--or--criteria--in--its~~
8 ~~evaluation.]~~ The contract file must state in writing the basis on
9 which the award is made.

10 SECTION 2.06. Sections 3.08(a), (c), (e), and (f), State
11 Purchasing and General Services Act (Article 601b, Vernon's Texas
12 Civil Statutes), are amended to read as follows:

13 (a) State agencies are delegated the authority to purchase
14 supplies, materials, and equipment if the purchase does not exceed
15 \$5,000, although an agency may continue to use the commission's
16 services for those purchases [\$500]. The commission by rule shall
17 prescribe procedures for these purchases, and by rule may delegate
18 to state agencies the authority to purchase supplies, materials, or
19 equipment if the purchase exceeds \$5,000 [\$500].

20 (c) Competitive bidding, whether formal or informal, is not
21 required for a purchase by a state agency if the purchase does not
22 exceed \$1,000 [\$100], or a greater amount prescribed by rule of the
23 commission.

24 (e) Large purchases may not be divided into small lot
25 purchases in order to meet the specified dollar limits. The
26 commission may not require that unrelated purchases be combined
27 into one purchase order in order to exceed the specified dollar

1 limits.

2 (f) Agencies making purchases under this section for which
3 competitive bidding is required must attempt to obtain at least
4 three competitive bids from sources which normally offer for sale
5 the merchandise being purchased and must comply with Section 3.101
6 of this article.

7 SECTION 2.061. Section 3.10, State Purchasing and General
8 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
9 amended by Chapter 677, Acts of the 72nd Legislature, Regular
10 Session, 1991, is amended by adding Subsection (c) to read as
11 follows:

12 (c) The commission shall make a good faith effort to assist
13 Texas businesses to receive a significant percentage of the total
14 value of all contract awards for the purchase of supplies,
15 materials, services, and equipment that the commission expects to
16 make for a state agency in its fiscal year.

17 SECTION 2.07. Article 3, State Purchasing and General
18 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
19 amended by adding Section 3.101 to read as follows:

20 Sec. 3.101. BIDDERS LISTS. (a) This section:

21 (1) applies to all purchases under this article for
22 which competitive bidding or competitive sealed proposals are
23 required;

24 (2) applies to all state agencies that make purchases
25 under this article, including the commission and agencies that make
26 purchases under Section 3.06 of this article; and

27 (3) does not apply to purchases made by the commission

1 under Section 3.11 of this article.

2 (b) The commission shall develop a uniform registration form
3 for application to do business with the commission or with any
4 state agency. The registration forms shall constitute a valid
5 application for a bidders list by all state agencies. This
6 subsection does not prevent a state agency from developing and
7 using its own registration form, but such forms may not be required
8 in addition to or in lieu of the uniform registration form
9 developed by the commission.

10 (c) Each state agency shall maintain a bidders list and
11 annually register on the list the name and address of each vendor
12 that applies for registration in accordance with rules adopted
13 under this section. An agency may include other relevant vendor
14 information on the list. Each agency shall solicit bids or
15 proposals from all eligible vendors on the list, as provided by
16 this section, when the agency proposes to make a purchase that will
17 cost more than \$5,000.

18 (d) A state agency may charge applicants for registration a
19 fee and may charge registrants an annual renewal fee in an amount
20 designed to recover the agency's costs in developing and
21 maintaining its bidders list and in soliciting bids or proposals
22 under this section. An agency shall set the amount of the fees by
23 rule.

24 (e) Each state agency shall adopt procedures for developing
25 and maintaining its bidders list and procedures for removing
26 inactive vendors from the list.

27 (f) Each state agency shall establish by rule a vendor

1 classification process under which only vendors that may be able to
2 make a bid or proposal on a particular purchase are solicited under
3 this section.

4 (g) The commission may establish by rule a process under
5 which the requirement for soliciting bids or proposals from
6 eligible vendors on the bidders list may be waived for appropriate
7 state agencies or appropriate purchases in circumstances in which
8 the requirement is not warranted. The commission also may assist
9 state agencies regarding issues that arise under this section.

10 SECTION 2.08. Article 3, State Purchasing and General
11 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
12 amended by adding Section 3.102 to read as follows:

13 Sec. 3.102. CERTAIN BIDS AND CONTRACTS PROHIBITED. A state
14 agency may not accept a bid or award a contract that includes
15 proposed financial participation by a person who received
16 compensation from the agency to participate in the preparation of
17 the specifications or request for proposals on which the bid or
18 contract is based. A bidder or contract participant may provide
19 free technical assistance to an agency under this section.

20 SECTION 2.09. Section 3.11(b), State Purchasing and General
21 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
22 amended to read as follows:

23 (b) Bidders List. The commission shall maintain a bidders
24 list and shall add or delete names from the list by the application
25 and utilization of applicable standards set forth in Subsection (e)
26 of this section. Bid invitations shall be sent only to those who
27 have expressed a desire to bid on the particular types of items

1 which are the subject of the bid invitation. Use of the bidders
2 list shall not be confined to contract purchases but it may be used
3 by the commission [~~as--it--may--find--desirable~~] in making any
4 purchase.

5 SECTION 2.10. Section 3.17, State Purchasing and General
6 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
7 amended to read as follows:

8 Sec. 3.17. SPECIFICATIONS AND STANDARDS PROGRAM; TEST AND
9 INSPECTION PROGRAM. (a) The commission shall have the authority
10 to establish and maintain a specifications and standards program to
11 coordinate the establishment and maintenance of uniform standards
12 and specifications for materials, supplies, and equipment purchased
13 by the commission. The commission shall enlist the cooperation of
14 other state agencies in the establishment, maintenance, and
15 revision of uniform standards and specifications and shall
16 encourage and foster the use of standard specifications in order
17 that the most efficient purchase of materials, supplies, and
18 equipment may be continuously accomplished.

19 (b) As part of the standards and specifications program, the
20 commission shall review existing contracts for recycling waste
21 produced at state buildings. The commission shall review existing
22 contracts and procedures to ensure that all services meet contract
23 specifications.

24 (c) The commission shall [~~may-also~~] establish and maintain a
25 program of testing and inspecting to ensure that materials,
26 supplies, services, and equipment meet specifications, and may make
27 contracts for testing. If any state agency determines that any

1 supplies, materials, services, or equipment received do not meet
2 specifications, it shall promptly notify the commission in writing
3 detailing the reasons why the supplies, materials, services, or
4 equipment do not meet the specifications of the contract. The
5 commission shall immediately determine whether or not the reported
6 supplies, materials, services, or equipment meet specifications.
7 The sole power to determine whether materials, supplies, services,
8 and equipment meet specifications shall rest with the commission.
9 The commission shall provide for the inspecting and testing of all
10 costly purchases and may adopt rules necessary to carry out this
11 duty. When the commission finds that contract specifications or
12 conditions have not been complied with, it shall take action, with
13 the assistance of the attorney general, if necessary, against the
14 defaulting contractor. If the commission receives repeated
15 complaints regarding a vendor, the commission may remove the
16 vendor's name from the commission's bidders list. The commission
17 may not remove a vendor's name from the commission's bidders list
18 for a period exceeding one year unless the vendor's actions have
19 caused serious harm to the state, its service recipients, or the
20 public. The commission by rule shall adopt criteria for
21 determining when a vendor should be removed from the bidders list.

22 SECTION 2.101. Article 3, State Purchasing and General
23 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
24 amended by adding Section 3.181 to read as follows:

25 Sec. 3.181. STATEWIDE OR REGIONAL SERVICES CONTRACTS;
26 COMMISSION STUDIES. (a) The commission annually shall select for
27 study at least one service that is purchased by one or more state

1 agencies. The commission shall study a selected service to
2 determine whether the state would benefit if the service were
3 provided to appropriate state agencies under a regional or
4 statewide contract. The commission shall give priority to studying
5 services for which the commission has delegated the purchasing
6 function to many state agencies.

7 (b) The commission is not required to enter into a statewide
8 or regional contract for the provision of a service to state
9 agencies if more than five bidders are willing to provide the
10 service to the state under a statewide or regional contract.

11 SECTION 2.11. Article 3, State Purchasing and General
12 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
13 amended by adding Section 3.201 to read as follows:

14 Sec. 3.201. PREFERENCE FOR PRODUCTS MADE FROM RECYCLED
15 MATERIALS. The commission shall give preference to products made
16 of recycled materials in purchases made under this Act if:

17 (1) the products meet state specifications as to
18 quantity and quality; and

19 (2) the cost of the product is equal to or less than
20 the cost of other similar products that are not made of recycled
21 materials.

22 SECTION 2.12. Article 3, State Purchasing and General
23 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
24 amended by adding Section 3.202 to read as follows:

25 Sec. 3.202. PREFERENCE FOR ENERGY EFFICIENT PRODUCTS. The
26 commission shall give preference to energy efficient products in
27 purchases made under this Act if:

1 (1) the products meet state specifications as to
2 quantity and quality; and

3 (2) the cost of the product is equal to or less than
4 the cost of other similar products that are not energy efficient.

5 SECTION 2.13. Section 3.23, State Purchasing and General
6 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
7 amended to read as follows:

8 Sec. 3.23. CONTRACTS WITH DEPARTMENT OF CRIMINAL JUSTICE
9 [~~CORRECTIONS~~]. The commission is [~~hereby~~] authorized to make
10 contracts with the Texas Department of Criminal Justice
11 [~~Corrections~~] for the purchase of supplies, equipment, services,
12 and materials for use by other state agencies.

13 SECTION 2.14. Section 3.29, State Purchasing and General
14 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
15 amended by amending Subsection (a) and by adding Subsections (g)
16 and (h) to read as follows:

17 (a) A state agency may not purchase or lease a vehicle
18 designed or used primarily for the transportation of persons,
19 including a station wagon, that has a wheel base longer than 113
20 inches or that has more than 160 [~~145~~] SAE net horsepower. This
21 provision does not apply to the purchase or lease of a vehicle to
22 be used primarily for criminal law enforcement or a bus,
23 motorcycle, pickup, van, truck, three-wheel vehicle, tractor, or
24 ambulance.

25 (g) In this section, a vehicle is considered to be capable
26 of using compressed natural gas or other alternative fuels if the
27 vehicle is capable of using compressed natural gas or other

1 alternative fuels either in its original equipment engine or in an
2 engine that has been converted to use compressed natural gas or
3 other alternative fuels after September 1, 1991, unless the time
4 for compliance is extended under Subsection (h) of this section.

5 (h) The commission may extend the date by which a vehicle
6 powered by a traditional gasoline or diesel engine shall be capable
7 of using compressed natural gas or other alternative fuels as
8 required under this section for one or more periods of 90 days, but
9 not beyond September 1, 1992, if it finds a lack of ability to
10 acquire such vehicles with original alternative fuels equipment, to
11 acquire such vehicles which are able to be converted, or to
12 convert such vehicles to use compressed natural gas or other
13 alternative fuels.

14 SECTION 2.15. Article 3, State Purchasing and General
15 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
16 amended by adding Section 3.301 to read as follows:

17 Sec. 3.301. CREDIT CARDS. The commission may issue a state
18 credit card to a state agency that may be used by the agency to
19 make purchases that do not exceed \$250.

20 SECTION 2.16. Article 3, State Purchasing and General
21 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
22 amended by adding Section 3.32 to read as follows:

23 Sec. 3.32. SAFETY STANDARDS FOR ELECTRICAL ITEMS. The
24 commission or another state agency may not purchase an electrical
25 item unless the item meets applicable safety standards of the
26 federal Occupational Safety and Health Administration.

27 SECTION 2.17. Article 4, State Purchasing and General

1 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
2 amended by adding Section 4.081 to read as follows:

3 Sec. 4.081. NAMING OF PUBLIC BUILDINGS. Buildings owned by
4 the state, including buildings financed under the Texas Public
5 Finance Authority Act (Article 601d, Vernon's Texas Civil
6 Statutes), shall be named in accordance with the procedure
7 prescribed by this section. The commission shall submit names
8 proposed for new state buildings, or proposals to rename existing
9 state buildings, to the presiding officers of the house and senate.
10 Approval of names to be placed on new state buildings, or the
11 renaming of existing buildings, proposed by the commission shall be
12 authorized only by concurrent resolution passed in a regular or
13 special session of the legislature and signed by the governor. Any
14 building, other than a building of an institution of higher
15 education or a prison, that bears the name of a person must bear
16 the name of a deceased person whose life was significant in the
17 history of the state.

18 SECTION 2.18. Section 4.09, State Purchasing and General
19 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
20 amended to read as follows:

21 Sec. 4.09. REPORT ABOUT IMPROVEMENTS AND REPAIRS. The
22 commission shall biennially on December 1st make a report to the
23 governor showing all improvements and repairs that have been made
24 with an itemized account of receipts and expenditures, and showing
25 the condition of all property under its control with an estimate of
26 needed improvements and repairs. The estimate shall be consistent
27 with the recommendations made in the 10-Year Strategic Plan

1 required by Section 5.35 of this Act.

2 SECTION 2.19. Subsections (g) and (m), Section 4.12, State
3 Purchasing and General Services Act (Article 601b, Vernon's Texas
4 Civil Statutes), are amended to read as follows:

5 (g)(1) The commission shall carry out the provisions of this
6 section through a chief of Capitol security, selected by the
7 executive director of the commission. The chief of Capitol
8 security may be a commissioned peace officer and shall hold the
9 position of a division director of the commission, exempt from the
10 state employees classification system, reporting directly to the
11 executive director of the commission. The chief shall develop and
12 submit to the executive director for approval a plan that clearly
13 sets forth the mission of the security function under this section.
14 The chief shall also develop and submit to the executive director
15 for approval personnel policies and procedures that relate to the
16 security function under this section.

17 (2) The commission is authorized to employ other
18 security officers for the purpose of assisting the chief in
19 carrying out the provisions of this section and may commission such
20 security officers as it deems necessary as peace officers. When so
21 commissioned, said officers are [hereby] vested with all the
22 powers, privileges, and immunities of peace officers; provided,
23 that the chief and each security officer shall take and file the
24 oath required of peace officers and shall execute and file with the
25 commission a good and sufficient bond in the sum of \$1,000 payable
26 to the governor of this state and his successors in office with two
27 or more good and sufficient sureties conditioned that he will

1 fairly and faithfully perform all of the duties as may be required
2 of him by law, and that he will fairly and impartially enforce the
3 law of this state and that he will pay over any and all money, or
4 turn over any and all property, to the proper person legally
5 entitled to the same, that may come into his possession by virtue
6 of such office. Said bond shall not be void for the first recovery
7 but may be sued on from time to time in the name of any person
8 injured until the whole amount thereof is recovered. It shall be
9 unlawful and constitute a misdemeanor punishable as provided in
10 this section for any person or persons to impersonate the chief or
11 any of said officers.

12 (m) Nothing herein contained shall be construed to abridge
13 the authority of the commission to grant permission to use [~~the~~
14 ~~capitol-grounds-and~~] any grounds adjacent to any state building for
15 such use as may be provided by preexisting law.

16 SECTION 2.20. Subsection (1), Section 4.15, State Purchasing
17 and General Services Act (Article 601b, Vernon's Texas Civil
18 Statutes), as added by Section 1, Chapter 1244, Acts of the 71st
19 Legislature, Regular Session, 1989, is redesignated as Subsection
20 (m) and amended to read as follows:

21 (m) [~~††~~] If the commission determines under Section 5.34 of
22 this Act that the purchase of an existing building is more
23 advantageous to the state than the construction of a new building
24 but a purchase of the building would be subject to existing leases
25 that exceed 15 percent of the total space in the building, the
26 commission may purchase the building subject to existing leases
27 notwithstanding Subsection (c) of this section. When an existing

1 lease expires, the commission may renew the lease subject to this
2 section, including Subsection (c).

3 SECTION 2.21. Section 5.01A(a), State Purchasing and General
4 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
5 amended to read as follows:

6 (a) In acquiring real property, each using agency of the
7 state, other than those specifically excluded by Sections 5.13 and
8 5.14 of this article, shall give first consideration to a building
9 that is a historic structure under Section 442.001, Government Code
10 [~~87--Chapter--5007--Acts--of--the--55th--Legislature7--Regular--Session7~~
11 ~~+957--as--amended--(Article--6+457--Vernon's--Texas--Civil--Statutes)~~], or
12 to a building that has been designated a landmark by the local
13 governing authority, if the building meets requirements and
14 specifications and the cost is not substantially higher than other
15 available structures that meet requirements and specifications.

16 SECTION 2.22. Section 5.12, State Purchasing and General
17 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
18 amended to read as follows:

19 Sec. 5.12. DEFINITIONS. The following terms whenever used
20 or referred to in this article shall have the following meanings,
21 except in those instances where the context clearly indicates
22 otherwise:

23 (1) "Using agency" means any instrumentality of the
24 state which shall occupy and make use of a state-owned or
25 state-leased building, and for the purpose of this article the
26 commission shall be considered as the using agency for [~~the-state~~
27 ~~capitol7--the-governor's-mansion--and--for--all--other~~] state-owned

1 buildings maintained by the commission.

2 (2) [~~"Commission"---means--the--State--Purchasing--and~~
3 ~~General-Services-Commission-~~

4 [~~3~~] "Project" means any building construction
5 project, other than those specifically excluded by Sections 5.13
6 and 5.14 of this article, which shall be financed in whole or in
7 part by specific appropriation, bond issue or federal funds. The
8 term "project" shall include the construction of any building or
9 any structure or any facility or utility appurtenant thereto,
10 including original equipment and original furnishings thereof, and
11 of any addition to, alteration, rehabilitation, or repair of any
12 existing building or any structure, or any facility or utility
13 appurtenant thereto.

14 (3) [~~4~~] "Project analysis" refers to work done prior
15 to legislative appropriation for a project for the purpose of
16 developing a reliable estimate of the cost of a project to be
17 requested of the legislature.

18 (4) [~~5~~] "Cost of a project" includes, but shall not
19 be limited to, the cost of all real estate, properties, rights and
20 easements acquired, utility services, site development, the cost of
21 construction and the initial furnishing and equipment thereof, all
22 architectural and engineering and legal expenses, the cost of
23 surveys and plans and specifications, and such other expenses,
24 including those incurred by the commission, as are necessary or
25 incident to determining the feasibility or practicability of any
26 project.

27 (5) [~~6~~] "Construction" means and includes

1 acquisition, construction, and reconstruction.

2 (6) [~~7~~] "Rehabilitation" means and includes renewal,
3 restoration, extension, enlargement, and improvement.

4 (7) [~~8~~] "Equipment" and "furnishings" mean and
5 include any equipment and furnishings whatsoever as may be
6 necessary and required for the use of a project.

7 (8) [~~9~~] "Architect/engineer" means a person
8 registered as an architect pursuant to Chapter 478, Acts of the
9 45th Legislature, Regular Session, 1937, as amended (compiled as
10 Article 249a of Vernon's Texas Civil Statutes), and/or a person
11 registered as a professional engineer pursuant to Chapter 404, Acts
12 of the 45th Legislature, Regular Session, 1937, as amended
13 (compiled as Article 3271a of Vernon's Texas Civil Statutes),
14 employed to provide professional architectural or engineering
15 services and having overall responsibility for the design of a
16 project. The term "architect/engineer" standing by itself may,
17 unless the context clearly indicates otherwise, mean either an
18 architect/engineer employed by the commission on a salary basis or
19 an architect/engineer in private practice retained for a specific
20 project under a contractual agreement with the commission. The
21 term "private architect/engineer" shall specifically and
22 exclusively refer to a registered architect or a registered
23 engineer in private practice retained for a specific project under
24 a contractual agreement with the commission.

25 (9) [~~10~~] "Stage construction" means the construction
26 of a project in phases, each phase resulting in one or more
27 buildings or structures which individually or together shall be

1 capable of use regardless of whether subsequent phases of the
2 project are authorized or not.

3 SECTION 2.23. Section 5.13(d), State Purchasing and General
4 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
5 amended to read as follows:

6 (d) Sections 5.16, 5.17, 5.21, and 5.25 of this article
7 apply to construction projects undertaken by or for the
8 institutional division of the Texas Department of Criminal Justice
9 [~~Corrections~~]. No other provisions of this article apply to
10 construction projects undertaken by or for the institutional
11 division of the Texas Department of Criminal Justice [~~Corrections~~].

12 SECTION 2.24. Section 5.16(c), State Purchasing and General
13 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
14 amended by Section 4 of Chapter 362 and Section 4 of Chapter 571,
15 Acts of the 68th Legislature, Regular Session, 1983, is amended to
16 read as follows:

17 (c) A project analysis shall consist of (1) a complete
18 description of the facility or project together with a
19 justification of such facility or project prepared by the using
20 agency, (2) a detailed estimate of the amount of space needed to
21 meet the needs of the using agency and to allow for realistic
22 future growth, (3) a description of the proposed facility prepared
23 by an architect/engineer and including schematic plans and outline
24 specifications describing the type of construction and probable
25 materials to be used, sufficient to establish the general scope and
26 quality of construction, (4) an estimate of the probable cost of
27 construction, (5) a description of the proposed site of the project

1 and an estimate of the cost of site preparation, [~~and~~] (6) an
2 overall estimate of the cost of the project, (7) the information
3 about historic structures considered instead of new construction
4 that was prepared as required by Section 5.01A of this article, and
5 (8) other information as required by the commission. A project
6 analysis may include two or more alternative proposals for meeting
7 the space needs of the using agency by (1) new construction, (2)
8 acquisition and rehabilitation of an existing or historic
9 structure, or (3) a combination of the above. If any part of the
10 project involves the construction or rehabilitation of a building
11 that is to be used primarily as a parking garage or for office
12 space for the state government, the project analysis also shall
13 include a description of the amount and location of space in the
14 building that can be made available for lease, under Section 4.15
15 of this Act, to private tenants or shall include a statement of the
16 reason that the lease of space in the building to private tenants
17 is not feasible. All estimates involved in the preparation of a
18 project analysis shall be carefully and fully documented and
19 incorporated into the project analysis.

20 Throughout the preparation of the project analysis, the
21 commission and any private architect/engineer employed by the
22 commission shall work closely and cooperatively with the using
23 agency to the end that the project analysis shall fully reflect the
24 needs of the using agency.

25 The using agency shall use the cost of the project as
26 determined by such project analysis as the basis of its request to
27 the budget offices of this state.

1 SECTION 2.25. Sections 5.16(a), (d), and (e), State
2 Purchasing and General Services Act (Article 601b, Vernon's Texas
3 Civil Statutes), are amended to read as follows:

4 (a) Each using agency of the state which shall desire any
5 project, other than those specifically excluded by Sections 5.13
6 and 5.14 of this article, shall prepare and submit to the
7 commission a general description of the project. The project must
8 conform to the space requirements developed by the commission under
9 Section 5.37 of this Act and to the 10-Year Strategic Plan required
10 by Section 5.35 of this Act. The commission shall review the
11 description, taking into consideration the needs of the agency, the
12 needs of other agencies, the feasibility of the project, and the
13 feasibility of combining projects. The commission shall prepare a
14 description of the project incorporating its own recommendations.
15 The commission shall cause all such projects to be studied and
16 shall initiate the preparation of a project analysis for all new
17 construction projects and for all other projects where, in the
18 opinion of the commission, the cost of preparing a project analysis
19 is justified.

20 (d) In the case of projects where, in the opinion of the
21 commission, the cost of a project analysis is not justified or
22 required, the commission shall, in cooperation with the using
23 agency, develop a realistic estimate of the cost of the project.
24 When necessary, the commission shall arrange for an on-site
25 inspection and analysis of the proposed project by a member of its
26 staff. The using agency shall be informed of the cost estimate so
27 developed and shall use such estimate as the basis of its request

1 to the budget offices of this state. The agency shall notify the
2 budget offices of the commission's recommendations under Subsection
3 (a) of this section.

4 (e) On or before a date to be specified by the budget
5 agencies of this state in each year immediately preceding a regular
6 session of the legislature, the commission shall submit to the
7 budget agencies a report listing all projects requested pursuant to
8 this section and the commission's recommendations for each project.
9 The list shall contain (1) a brief and specific justification of
10 each project as prepared by the using agency, (2) a summary of the
11 project analysis where one was made or a statement briefly
12 describing the cost-estimating method used for projects for which a
13 project analysis was not made, (3) a project cost estimate
14 developed in accordance with the provisions of this section, with
15 sufficient detail given to afford the budget agencies, the
16 governor, and the legislature the widest possible latitude in
17 developing policy in regard to each such project request, (4) an
18 estimate, prepared by the commission with the cooperation of the
19 using agency and with the cooperation of the private
20 architect/engineer employed, of the annual cost of maintaining the
21 completed project including the estimated cost of utility services,
22 [and] (5) an estimate, prepared by the using agency, of the annual
23 cost of staffing and operating the completed project exclusive of
24 maintenance cost, and (6) an explanation of how the project would
25 conform to the 10-Year Strategic Plan. Where appropriate, the
26 commission, with input from ~~[the approval of]~~ the using agency, may
27 indicate the feasibility of stage construction of a requested

1 project and may indicate the degree to which funds would be
2 required in the next biennium if the project were undertaken in
3 stages.

4 SECTION 2.26. Section 5.18(b), State Purchasing and General
5 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
6 amended to read as follows:

7 (b) If the expenditures for fine arts are authorized and
8 appropriated by the legislature, the commission shall consult and
9 cooperate with the Texas Commission on the Arts [~~and-Humanities~~]
10 for advice in determining how to utilize the portion of the
11 appropriation to be used for fine arts projects.

12 SECTION 2.27. Sections 5.19(b) and (c), State Purchasing and
13 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
14 are amended to read as follows:

15 (b) The agency or the governing body of a political
16 subdivision may consult and cooperate with the Texas Commission on
17 the Arts [~~and-Humanities~~] for advice in determining how to utilize
18 the portion of the cost set aside for fine arts purposes.

19 (c) The Texas Commission on the Arts [~~and-Humanities~~] shall
20 place emphasis on works by living Texas artists whenever feasible,
21 and when consulting with the governing body of a political
22 subdivision, shall place emphasis on works by artists who reside in
23 or near the political subdivision. Consideration shall be given to
24 artists of all ethnic origins.

25 SECTION 2.28. Section 5.20(c), State Purchasing and General
26 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
27 amended to read as follows:

1 (c) Following final approval of the working plans and
2 specifications and their acceptance by the using agency, the
3 commission shall cause to be advertised in not less than two
4 newspapers of general circulation for bids or proposals for
5 performance of the construction and related work on the project.
6 The commission shall allow bidders at least 30 days after the date
7 that the commission issues the bid documents to respond to an
8 invitation to bid, but the commission may shorten the period to
9 prevent undue additional costs to a state agency or for emergency
10 projects to prevent or remove a hazard to life or property.
11 Subject to the applicable provisions of other law respecting the
12 award of state contracts, the contract or contracts shall be
13 awarded to the qualified bidder making the lowest and best bid; but
14 no contract shall be awarded for a sum in excess of the amount
15 which the comptroller shall certify to be available for such
16 project. The commission shall have the right to reject any and all
17 bids.

18 SECTION 2.29. Section 5.22, State Purchasing and General
19 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
20 amended by amending Subsection (b) and adding Subsection (c) to
21 read as follows:

22 (b) Responsibility for the selection of a private
23 architect/engineer employed for any project covered by the
24 provisions of this article shall be vested in the commission. The
25 commission shall adopt rules that state the criteria the commission
26 uses to evaluate the competence and qualifications of private
27 architects/engineers. The commission shall develop the rules in

1 consultation with the Texas Board of Architectural Examiners and
2 the State Board of Registration for Professional Engineers. The
3 commission shall allow each private architect/engineer selected for
4 an interview at least 30 days after the date the commission
5 notifies the architect/engineer to prepare for the interview.

6 (c) In recognition of the close working relationship which
7 must exist between the architect/engineer and the using agency, the
8 commission shall request the using agency to make recommendations
9 regarding private architects/engineers and shall consider any such
10 recommendation in making its selection of a private
11 architect/engineer to be employed for a particular project. The
12 commission shall make its selection in accordance with the rules
13 adopted under Subsection (b) of this section [~~generally-accepted~~
14 ~~standards-for-such-selection~~] and [~~in-conformity-with~~] the ethical
15 standards of the professional societies of such
16 architects/engineers.

17 SECTION 2.30. Section 5.26(b), State Purchasing and General
18 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
19 amended to read as follows:

20 (b) The commission shall cause the uniform general
21 conditions of state building construction contracts to be reviewed
22 whenever in its opinion such review is desirable, but in no event
23 less frequently than once every five years. The review shall be
24 made by a committee appointed by the commission consisting of the
25 director of facilities construction and space management, who shall
26 serve ex officio as chairman of the committee and who shall vote
27 only in the event of a tie; two persons appointed by the commission

1 from a list of nominees submitted to it by the President of the
2 Texas Society of Architects; two persons appointed by the
3 commission from a list of nominees submitted to it by the President
4 of the Texas Society of Professional Engineers; [and] two persons
5 appointed by the commission from a list of nominees submitted to it
6 by the Chairman of the Executive Council of the Texas Associated
7 General Contractors Chapters; and two persons appointed by the
8 commission from the list of nominees submitted to it by the
9 Executive Secretary of the Mechanical Contractors Associations of
10 Texas, Incorporated. Members of any review committee appointed
11 pursuant to this subsection shall serve without compensation but
12 may be reimbursed for their necessary and actual expenses.

13 SECTION 2.31. Sections 5.34(a) and (b), State Purchasing and
14 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
15 are amended to read as follows:

16 (a) The commission shall continuously survey the office
17 space needs of the state to determine the space needed and the
18 location of the need. Before each legislative session, the
19 commission shall submit to the Legislative Budget Board, the
20 governor, the lieutenant governor, and the speaker of the house of
21 representatives a report that identifies counties in which more
22 than 50,000 square feet of usable office space is needed, and the
23 commission's recommendations for meeting those needs. The
24 commission may recommend the leasing or the purchasing and
25 renovating of one or more existing buildings or the construction of
26 one or more buildings. Recommendations must be consistent with the
27 recommendations in the 10-Year Strategic Plan. The commission may

1 collect appropriate information and data that it considers
2 necessary for the development of its recommendations and report.

3 (b) If a legislative Act has permitted the issuance of bonds
4 by the Texas Public Finance Authority or the Texas Public Building
5 Authority to construct one or more buildings and improvements in a
6 county, the commission may solicit and receive proposals, using the
7 same procedures applicable to the purchase of other real property,
8 for the purchase of one or more existing buildings with bond
9 proceeds. If evaluation of the proposals by the commission
10 demonstrates that purchase of one or more existing buildings would
11 be an appropriate and financially advantageous means of meeting all
12 or part of the state's office space needs in that county, the
13 commission shall certify that fact to the appropriate authority and
14 request the authority to issue all or any portion of its bonds
15 previously authorized by the legislature for that purpose.

16 The determination of financial advantage shall be made after
17 the commission has compared construction and purchase as fairly as
18 possible considering such factors and imputing value as the
19 commission considers appropriate, including but not limited to
20 consideration of the following factors:

21 (1) the estimated cost of construction and of
22 acquiring land for the construction;

23 (2) the anticipated purchase price for one or more
24 existing buildings;

25 (3) the estimated costs of converting one or more
26 existing buildings to state building specifications, including
27 reconstruction costs only when reconstruction is necessary;

1 (4) the efficiency and suitability of an existing
2 building's space as configured for the state's use;

3 (5) the estimated occupancy dates for proposed
4 construction versus an existing building;

5 (6) the value of an existing building's location,
6 parking, landscaping, and other enhancements;

7 (7) the remaining useful life of mechanical components
8 of an existing building; and

9 (8) the estimated cost of maintenance and operations,
10 including telecommunications services, for each option considered
11 by the commission.

12 SECTION 2.32. Section 5.35, State Purchasing and General
13 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
14 amended to read as follows:

15 Sec. 5.35. DEVELOPMENT OF PLANS REGARDING CONSTRUCTION AND
16 LEASES. (a) The commission shall prepare a long-range plan,
17 called the 10-Year Strategic Plan, containing recommendations for
18 the best use of state-owned and leased space [~~regarding--the--needs~~
19 ~~of--state--agencies--in--Travis-County-which-obtain-or-occupy-space~~
20 ~~under-provisions-of-the-State-Purchasing-and-General--Services--Act~~
21 ~~(Article-601b, Vernon's Texas Civil Statutes)~~]. The plan may apply
22 only to space in Travis County. The plan shall be updated
23 biennially and submitted to the Governor's Office of Budget and
24 Planning and the Legislative Budget Board not later than July 1 of
25 each even-numbered year so that the information can be used in the
26 development of appropriation and capital budget recommendations.
27 In formulating the plan, the commission shall consider:

- 1 (1) the expiration of existing leases;
- 2 (2) financing alternatives;
- 3 (3) use of space within established guidelines;
- 4 (4) locating state agencies in the same building or at
5 the same site to the extent that co-location is feasible;
- 6 (5) access to state services;
- 7 (6) anticipated savings;
- 8 (7) needs for future expansion of agencies and
9 programs; and
- 10 (8) overall feasibility.

11 (b) [~~The--commission-shall-establish-and-maintain-a-six-year~~
12 ~~capital--planning--cycle--and--shall--report--biennially--a--master~~
13 ~~facilities-plan--The-plan-and-each-update-must-be-filed--with--the~~
14 ~~Governor's--Office--of-Budget-and-Planning-and-with-the-Legislative~~
15 ~~Budget-Board-before-July-1-of-each-even-numbered-year-]~~ The plan
16 must contain:

- 17 (1) the commission's projections [~~a-projection~~] of the
18 amount of space that state agencies will need during the next 10
19 years;
- 20 (2) an examination of the utilization, age, condition,
21 and economic life of state-owned buildings on the inventory of the
22 commission;
- 23 (3) an analysis, in accordance with Section 5.16 of
24 this Act, of the projects which have been requested by state
25 agencies and the commission's recommendations for the most
26 efficient means of meeting the space requirements addressed by the
27 project requests;

1 (4) an examination of the extent to which the state
2 satisfies its need for space by leasing building space and the
3 feasibility of converting to state-owned space;

4 (5) an examination of the state-paid operation and
5 maintenance costs, including costs for telecommunications services,
6 for existing buildings owned or leased by the state and
7 recommendations for cost savings in this area;

8 (6) a discussion of the economic and market conditions
9 affecting the costs of the construction or lease of buildings;

10 (7) recommendations concerning [~~an---analysis--of~~]
11 whether the state will benefit more from satisfying its needs for
12 space by engaging in new projects, by leasing built space, or by
13 satisfying its needs in some other manner; and

14 (8) other information relevant to the long-range plan
15 and either considered appropriate by the commission or requested in
16 writing by the governor or the presiding officer of either house of
17 the legislature.

18 (c) Each agency of the state which is housed, either wholly
19 or partly, in facilities on the commission's inventory or in
20 facilities leased through the commission shall be given a copy of
21 the plan to be used in developing specifications for construction
22 projects under Section 5.16 of this Act and in requesting lease
23 space under Section 6.02 of this Act [~~participate-in-the-long-range~~
24 ~~planning-process--required--by--this--Act~~]. Agencies shall also
25 incorporate the plan's recommendations in developing information
26 for the strategic planning process required by Article 6252-31,
27 Revised Statutes, as added by H.B. 2009, Acts of the 72nd

1 Legislature, Regular Session, 1991.

2 (d) The Legislative Budget Board and the Governor's Office
3 of Budget and Planning shall use the plan's recommendations in
4 making budgeting and appropriations recommendations to the
5 legislature.

6 (e) This section does not apply to an institution of higher
7 education that complies with the requirements of Sections 61.0572
8 and 61.0582, Education Code.

9 SECTION 2.33. Section 5.36, State Purchasing and General
10 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
11 added by Chapter 677, Acts of the 72nd Legislature, Regular
12 Session, 1991, is amended to read as follows:

13 Sec. 5.36. PUBLIC WORKS CONTRACTS WITH CERTAIN BUSINESSES.

14 (a) A state agency that enters into a contract for a project,
15 including a project constructed by or for an agency otherwise
16 excepted under Section 5.13 of this article, shall make a good
17 faith effort to assist disadvantaged businesses to receive at least
18 10 percent of the total value of each construction contract award
19 that the agency expects to make in its fiscal year. Each agency
20 shall estimate the expected total value of contract awards under
21 this article not later than the 60th day of its fiscal year and may
22 revise the estimate as new information requires.

23 (b) A state agency that enters into a contract for a
24 project, including a project constructed by or for an agency
25 otherwise excepted under Section 5.13 of this article, shall make a
26 good faith effort to assist Texas businesses to receive a
27 significant percent of the total value of each construction

1 contract award that the agency expects to make in its fiscal year.

2 SECTION 2.34. Article 5, State Purchasing and General
3 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
4 amended by adding Section 5.37 to read as follows:

5 Sec. 5.37. STANDARDIZED SPACE REQUIREMENTS. (a) The
6 commission shall develop standardized space requirements for better
7 utilization of state-owned and leased space in Travis County. In
8 developing these requirements, the commission shall consider:

9 (1) the most efficient use of space per full-time
10 equivalent employee;

11 (2) the availability of state-owned space;

12 (3) the availability and cost of lease space;

13 (4) the feasibility of locating more than one agency
14 at the same location; and

15 (5) the future needs of the agency.

16 (b) Each state agency housed in facilities in Travis County
17 on the commission's inventory or in facilities in Travis County
18 leased through the commission shall conform to the standard space
19 requirements established by the commission.

20 (c) The commission shall monitor space used by state
21 agencies in Travis County for compliance. Additional space
22 requests may be delayed until the agency has conformed to the
23 requirements established by the commission.

24 (d) The commission may temporarily exempt an agency from
25 standard space requirements if a negotiated plan is developed to
26 bring the agency into compliance.

27 (e) This section does not apply to an institution of higher

1 education that complies with the requirements of Section 61.0572,
2 Education Code.

3 SECTION 2.35. Section 6.01, State Purchasing and General
4 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
5 amended to read as follows:

6 Sec. 6.01. DEFINITION [~~DEFINITIONS~~]. In this article,
7 "space" means office space, warehouse space, laboratory space,
8 storage space exceeding 1,000 gross square feet, or any combination
9 thereof, but does not include aircraft hangar space, radio antenna
10 space, boat storage space, vehicle parking space, residential space
11 for a Texas Department of Mental Health and Mental Retardation
12 program, or space to be utilized for less than one month for
13 meetings, conferences, seminars, conventions, displays,
14 examinations, auctions, or other similar purposes.

15 SECTION 2.36. Section 6.02(b), State Purchasing and General
16 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
17 amended to read as follows:

18 (b) After consulting the state agency regarding the amount
19 and type of space requested, the commission shall determine whether
20 a need for the space exists and, if so, the specifications to be
21 used in obtaining the space. The specifications for space in
22 Travis County must be consistent with the standardized space
23 requirements developed under Section 5.37 of this Act.

24 SECTION 2.37. Section 6.03, State Purchasing and General
25 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
26 amended to read as follows:

27 Sec. 6.03. SHARING SPACE. To the extent feasible, the [~~The~~]

1 commission shall [may] consolidate the requests for space of two or
2 more state agencies [~~with--similar--needs--and--obtain--space~~] and
3 allocate space obtained so that it can be shared by the agencies.

4 SECTION 2.38. Section 6.05(b), State Purchasing and General
5 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
6 amended by Section 3 of Chapter 779 and Section 5 of Chapter 1244,
7 Acts of the 71st Legislature, Regular Session, 1989, is amended to
8 read as follows:

9 (b) The space may be leased from another state agency
10 through an interagency contract, or from the federal government[~~--a~~
11 ~~commercial-building-which-is-100-percent-owned,--either-directly--or~~
12 ~~indirectly,--by--a--statewide--Texas-public-retirement-system~~] or a
13 political subdivision, including a county, a municipality, a school
14 district, a water or irrigation district, a hospital district, a
15 council of government, or a regional planning council, [~~or-from-a~~
16 ~~statewide-Texas-public-retirement-system-in-a--commercial--building~~
17 ~~that--is-100-percent-directly-or-indirectly-owned-by-the-retirement~~
18 ~~system,~~] through a negotiated contract. The space may also be
19 leased, through a negotiated contract, from a statewide Texas
20 public retirement system in a commercial building that is 100
21 percent directly or indirectly owned by the retirement system.

22 SECTION 2.39. Sections 6.05(d) and (j), State Purchasing and
23 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
24 are amended to read as follows:

25 (d) When competitive bidding is used, the commission shall
26 take into consideration moving costs, the cost of time lost in
27 moving, and other factors, including the cost of telecommunications

1 services, in determining the lowest and best bid.

2 The commission shall forward copies of all bids received to
3 the leasing agency along with the commission's recommended award.
4 If, after review of the bids and evaluation of all factors
5 involved, the leasing agency determines that the bid selected by
6 the commission is not in its opinion the lowest and best bid, it
7 may file with the commission a written recommendation, complete
8 with justification and full explanation of all factors considered
9 in arriving at the recommendation, that the award be made to a
10 bidder other than the commission's recommended bidder.

11 The commission shall give full consideration to the agency
12 recommendation and if it does not agree with the agency
13 recommendation, it shall notify the agency in writing. The agency
14 and the commission shall attempt to reach an agreement on the
15 award.

16 If agreement is not reached within 30 days, all bids and
17 pertinent documents shall be transmitted to the governor who shall
18 designate the bidder to which the award shall be made.

19 (j) In leasing space for the use of state agencies, the
20 commission shall give first consideration to a building that is a
21 historic structure under Section 442.001, Government Code [87
22 ~~Chapter-5007--Acts-of-the-55th-Legislature7-Regular--Session7--19577~~
23 ~~as--amended-(Article-61457--Vernon's-Texas-Civil-Statutes)~~], or to a
24 building that has been designated a landmark by the local governing
25 authority, if the building meets requirements and specifications
26 and the cost is not substantially higher than other available
27 structures that meet requirements and specifications. Upon

1 consideration of the leasing of space for the use of a state
2 agency, the commission shall notify all individuals and
3 organizations that are within the county where the leasing is under
4 consideration and that are on a list furnished to the commission by
5 the Texas Historical Commission as required by Section 442.005,
6 Government Code [~~86-of-Chapter-5007--Acts-of-the--55th--Legislature,~~
7 ~~Regular---Session7---1957---(Article--61457--Vernon's--Texas--Civil~~
8 ~~Statutes)~~]. At the end of a biennium, the commission shall report
9 to the legislature the commission's reasons for rejecting during
10 the biennium the lease of any historic structure whose owner bid to
11 lease space to the state.

12 SECTION 2.40. Section 6.06, State Purchasing and General
13 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
14 amended to read as follows:

15 Sec. 6.06. ELIMINATION OF BARRIERS TO HANDICAPPED PERSONS IN
16 STATE BUILDINGS. The commission may not enter a lease contract
17 under this article unless it complies with the provisions of
18 Article 9102, Revised Statutes, concerning architectural barriers
19 [7-of-this-Act].

20 SECTION 2.41. Section 6.07, State Purchasing and General
21 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
22 amended to read as follows:

23 Sec. 6.07. USE OF LEASED SPACE [~~REMEDIAL--ACTION-AGAINST~~
24 ~~LESSOR~~]. (a) An agency shall immediately occupy leased space
25 unless otherwise provided in the lease contract. If space is not
26 available for immediate occupancy or the agency cannot occupy the
27 space immediately, the agency shall notify the commission of the

1 circumstances.

2 (b) If an agency is not utilizing any part of the leased
3 space at any time during the lease period, the agency shall notify
4 the commission.

5 (c) The commission shall periodically inspect leased space
6 to ensure maximum utilization. Underutilized space may be assigned
7 to other agencies to the extent feasible.

8 (d) When a state agency occupies lease space and is aware of
9 circumstances concerning the space which require remedial action
10 against the lessor, the agency shall notify the commission, and the
11 commission may investigate the circumstances and the lessor's
12 performance under the contract.

13 (e) When the commission requests the assistance of the
14 attorney general in protecting the state's interest under a lease
15 contract, the attorney general shall assist the commission.

16 SECTION 2.42. Section 6.111, State Purchasing and General
17 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
18 amended to read as follows:

19 Sec. 6.111. DELEGATION OF AUTHORITY TO INSTITUTIONS OF
20 HIGHER EDUCATION. The commission may delegate to an institution of
21 higher education the authority to enter into space lease contracts
22 financed from sources other than funds appropriated from general
23 revenue, provided that an institution of higher education may not
24 enter a lease contract under this section unless it complies with
25 the provisions of Article 9102, Revised Statutes, [~~7-of--this--Act~~]
26 concerning architectural barriers.

27 SECTION 2.43. Section 8.01(a), State Purchasing and General

1 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
2 amended to read as follows:

3 (a) This article applies to personal property belonging to
4 the state. [~~All personal property belonging to the state shall be~~
5 ~~accounted for by the head of the agency that has possession of the~~
6 ~~property.~~]

7 SECTION 2.44. Section 8.01(b), State Purchasing and General
8 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
9 amended by Chapter 599, Acts of the 72nd Legislature, Regular
10 Session, 1991, is reenacted to read as follows:

11 (b) The commission shall administer the property accounting
12 system and maintain a complete and accurate set of centralized
13 records of state property based on information supplied by state
14 agencies or the uniform statewide accounting system. The property
15 accounting system shall, to the extent possible, constitute the
16 fixed asset component of the uniform statewide accounting system.
17 The commission shall coordinate with the comptroller in issuing
18 rules, instructions, and necessary requirements for the property
19 accounting system, subject to review and comment by the state
20 auditor. The rules, instructions, and requirements must be
21 consistent with the requirements of the uniform statewide
22 accounting system.

23 SECTION 2.45. Section 8.02(b), State Purchasing and General
24 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
25 amended to read as follows:

26 (b) All personal property owned by the state shall be
27 accounted for by the head of the agency that has possession of

1 [~~possesses~~] the property. The commission shall by rule
2 [~~regulation~~] define what is meant by personal property for the
3 purposes of this article, but such definition shall not include
4 nonconsumable personal property having a value of \$500 or less per
5 unit. In promulgating such rules [~~regulations~~], the commission
6 shall take into account the value of the property, its expected
7 useful life, and if the cost of record keeping bears a reasonable
8 relationship to the cost of the property on which records are kept.
9 The commission shall consult with the state auditor in making such
10 rules [~~regulations~~] and the auditor shall cooperate with the
11 commission in the exercise of this rulemaking power by giving
12 technical assistance and advice.

13 SECTION 2.46. Section 9.11, State Purchasing and General
14 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
15 amended to read as follows:

16 Sec. 9.11. PURCHASE OF LEGISLATIVE CHAIRS. Notwithstanding
17 any provision of law to the contrary, upon the vacation of an
18 office or the termination of employment, an elected officer, an
19 appointed officer, or an executive head of a state agency within
20 the legislative, executive, and judicial departments of state
21 government may purchase the chair used by the officer or employee
22 during his or her tenure of service for its fair market value. A
23 determination of the fair market value of the chair shall be made
24 by the commission for executive and legislative agencies other than
25 the legislature, by the chief justice for judicial agencies, by the
26 speaker of the house of representatives for the house of
27 representatives, and by the lieutenant governor for the senate [A

1 legislator may purchase the executive chair used by the legislator
2 on the floor of the legislature if:

3 [(1) -- the legislator has not been reelected; and

4 [(2) -- the legislator pays into the state treasury the
5 commission's estimate of the fair market value of replacement
6 equipment.

7 [This section does not limit a legislator's right to purchase
8 state-owned equipment in any other manner].

9 SECTION 2.47. Section 10.02, State Purchasing and General
10 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
11 amended to read as follows:

12 Sec. 10.02. SYSTEM OF TELECOMMUNICATIONS SERVICES. (a) The
13 commission shall [plan, establish, and] manage the operation of a
14 system of telecommunications services for all state agencies. Each
15 agency shall identify its particular telecommunications services
16 requirements and the site at which the service shall be provided.

17 (b) The commission shall fulfill the telecommunications
18 requirements of each state agency to the extent possible and to the
19 extent that funds are appropriated or available for this purpose.

20 (c) The commission, Department of Information Resources, and
21 comptroller shall jointly develop functional requirements for a
22 statewide system of telecommunications services for all state
23 agencies. Existing networks, as configured on the effective date
24 of this subsection, of institutions of higher education are exempt.

25 (d) The commission, Department of Information Resources, and
26 comptroller shall develop requests for information and proposals
27 for a statewide system of telecommunications services for all state

1 agencies.

2 (e) The commission, Department of Information Resources, and
3 comptroller shall [may] negotiate rates and execute contracts with
4 telecommunications service providers for services. Those entities
5 [~~The--commission~~] may acquire transmission facilities by purchase,
6 lease, or lease-purchase, which shall be done on a competitive bid
7 basis if possible. Those entities [~~The-commission~~] may develop,
8 establish, and maintain carrier systems necessary to the operation
9 of the telecommunications system. The commission may own, lease,
10 or lease-purchase any or all of the facilities or equipment
11 necessary to provide telecommunications services.

12 (f) [†d] All contracts with telecommunications carriers
13 shall contain the provision that the commission or any
14 participating agency may obtain any data relating to the costs to
15 the state of parallel tolls.

16 SECTION 2.48. Article 10, State Purchasing and General
17 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
18 amended by adding Section 10.071 to read as follows:

19 Sec. 10.071. USE OF SYSTEM BY CERTAIN STUDENTS. (a)
20 Institutions of higher education under Section 61.003, Education
21 Code, that are authorized to use the system of telecommunications
22 services established under this article may allow students of the
23 institution who reside in housing for which the institution
24 provides telephone service to use the system of telecommunications
25 services established under this article. An institution shall
26 recover from a student who chooses to use the system the full pro
27 rata cost attributable to that student's use, including costs

1 identifiable for interconnection to and use of the local publicly
2 switched network.

3 (b) The commission shall adopt rules that govern student
4 access to the system, including times of access to the system, and
5 the full recovery of actual costs from each student who uses the
6 system.

7 (c) In consideration of the duties and responsibilities
8 hereby given the commission under this Act, it shall be in keeping
9 with the policy of this state that no state agency or unit of state
10 government shall engage in the provision of telecommunications
11 products or services to the general public in competition with
12 private enterprise unless there is a finding that such activity is
13 in the public interest. This shall not prohibit students who
14 reside in housing for which institutions of higher education
15 provide telephone service from using service provided under this
16 section.

17 SECTION 2.49. Section 11.01(b), State Purchasing and General
18 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
19 amended to read as follows:

20 (b) Any reference in the statutes to the State Board of
21 Control or [means] the State Purchasing and General Services
22 Commission means the General Services Department.

23 SECTION 2.50. Section 11.02, State Purchasing and General
24 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
25 amended by Chapters 778 and 791, Acts of the 71st Legislature,
26 Regular Session, 1989, is amended to read as follows:

27 Sec. 11.02. DELIVERY OF CERTAIN INTERAGENCY MAIL. (a) The

1 commission shall operate a messenger service for handling the
2 delivery of unstamped written communications and packages between
3 state agencies, including the legislature and legislative agencies,
4 located in Travis County. All such agencies shall utilize the
5 service.

6 (b) Unless use of the United States Postal Service is
7 required by state or federal law, a state agency subject to
8 Subsection (a) of this section may not use the United States Postal
9 Service for delivery of interagency mail to another state agency in
10 Travis County, provided, however, state agencies subject to
11 Subsection (a) are not prohibited from using an alternate delivery
12 method.

13 (c) State warrants may be delivered upon agreement between
14 the state comptroller, the commission, and the agency concerned.

15 (d) United States mail may be delivered to and from the post
16 office located in the capitol complex on agreement of the
17 commission and the agency concerned. [~~It~~] It is the intent of
18 the legislature that mail be processed for delivery as
19 expeditiously as its priority dictates and that mail not be unduly
20 delayed solely for the purpose of achieving a lower rate of
21 postage.

22 (e) In order to improve state agency management of mail
23 operations and to reduce the state's mail costs, this Act requires
24 that state agencies of the executive branch of state government
25 established by the constitution or statutes of this state:

26 (1) evaluate their mail operations to identify and
27 eliminate practices resulting in excessive mailing costs; and

1 (2) develop and implement plans and programs for
2 making the necessary improvements in such operations.

3 (f) Not later than January 1, 1990, the commission [State
4 ~~Purchasing-and-General-Services-Commission~~] shall:

5 (1) evaluate the mail operations of agencies located
6 in Travis County to make recommendations to identify and eliminate
7 practices resulting in excessive mailing costs; and

8 (2) establish minimum mail-management objectives and
9 responsibilities to be carried out by offices and units of these
10 agencies.

11 (g) Not later than April 1, 1990, the commission [State
12 ~~Purchasing--and--General--Services--Commission~~] shall develop and
13 submit to the governor and the legislative budget office a
14 mail-management plan which provides for:

15 (1) improving the measurement of agency mail costs, in
16 conjunction with the United States Postal Service, including
17 considering the use of postage meters or stamps;

18 (2) determining the advantages to agencies of using
19 mail presorting programs;

20 (3) determining the lowest cost class of mail
21 necessary to effectively accomplish individual agency functions;

22 (4) evaluating the cost-effectiveness of using
23 alternatives to the United States Postal Service for the delivery
24 of agency mail; and

25 (5) training agency personnel regarding cost-effective
26 mailing practices.

27 (h) The commission [State--~~Purchasing-and-General-Services~~

1 Commission] shall:

2 (1) establish programs to implement the plan prepared
3 under Subsection (g) of this section, including standards for
4 receipt, delivery, collection, and dispatch of mail; and

5 (2) publish and disseminate mail-management standards,
6 guides, and instructions and establish and implement procedures for
7 monitoring compliance with such standards, guides, and
8 instructions.

9 (i) State agencies in Travis County shall:

10 (1) periodically submit to the governor and the
11 legislative budget office reports of their progress in achieving
12 the objectives and other revisions of the plan required by
13 Subsection (g) of this section, including an analysis of savings
14 projected from the improvements in mail management provided for in
15 such revised plan;

16 (2) designate a person to be responsible for the
17 development and implementation of mail-management programs for all
18 offices and units of the agency; and

19 (3) review and consolidate mailing lists used by the
20 agency to distribute publications and other materials issued by the
21 agency.

22 (j) When two or more state agencies are providing common
23 services for mail management, those agencies may designate a single
24 agency to report on behalf of all agencies participating under the
25 contract.

26 SECTION 2.51. Article 11, State Purchasing and General
27 Services Act (Article 601b, Vernon's Texas Civil Statutes), is

1 amended by adding Section 11.06 to read as follows:

2 Sec. 11.06. PRINTING. (a) The commission may assist state
3 agencies and assess and evaluate their printing activities. It may
4 recommend changes designed to achieve increased productivity and
5 cost-effectiveness of these operations. Recommendations may be
6 reported to the appropriate associate deputy director periodically
7 as determined by the rules of the commission.

8 (b) The commission may:

9 (1) adopt standard accounting procedures that permit
10 the evaluation and comparison of the costs of printing operations
11 conducted by state agencies;

12 (2) coordinate activities among state print shops;

13 (3) review state agency requisitions for new printing
14 equipment;

15 (4) serve as a resource to state agencies to expedite
16 the production of printing and graphic arts;

17 (5) maintain a current roster of state print shops and
18 their equipment, facilities, and special capabilities;

19 (6) serve as a clearinghouse for private vendors of
20 printing services to ensure that printing services and supplies are
21 purchased in the most efficient and economical manner;

22 (7) coordinate the consolidation of print shops
23 operated by state agencies when consolidation is determined to be
24 appropriate by the agencies involved; and

25 (8) develop procedures for the recovery of the
26 commission's reasonable costs, under the provisions of Chapter 317,
27 Government Code, out of amounts appropriated to the state agencies

1 in which identified savings are achieved.

2 (c) This section does not apply to an institution of higher
3 education.

4 SECTION 2.52. Sections 13.03(a)-(d), State Purchasing and
5 General Services Act (Article 601b, Vernon's Texas Civil Statutes),
6 are amended to read as follows:

7 (a) Each biennium a state agency subject to this article
8 shall conduct competitive cost reviews of the functions performed
9 by that agency as provided by this article and shall adopt rules to
10 implement this article. If the agency has an internal auditor, the
11 internal auditor shall coordinate the activities of the agency that
12 are required under this article. The agency shall conduct
13 management studies, develop agency in-house cost estimates, and
14 conduct other activities as necessary to implement this article.

15 (b) In conducting a competitive cost review of the functions
16 performed by a state agency, the agency shall analyze all agency
17 activities, shall identify by November 1 of each year all
18 commercial activities performed by the agency, and shall develop a
19 schedule for the analysis of the commercial activities identified.
20 For each commercial activity identified, the agency shall also at
21 that time quantify in measurable units the amount of the activity
22 performed by the agency and identify the amount of money budgeted
23 for the activity by the agency. The administrative head of the
24 agency shall promptly submit the agency's inventory of commercial
25 activities, including the workload and budget information, together
26 with its analysis schedule to the State Auditor, Legislative Budget
27 Board, Governor's Office of Budget and Planning, Senate Finance

1 Committee, House Appropriations Committee, Privatization Approval
2 Council of Texas, and commission for review and comment. The
3 agency shall then report its determinations to its governing body
4 and shall submit the schedule to its governing body [~~for--approval~~]
5 by December 1 of each year for approval.

6 (c) After approval of the schedule by the governing body,
7 the state agency shall conduct a management study of the agency
8 functions specified in the schedule. The agency shall conduct the
9 study in accordance with instructions issued by the commission. At
10 the minimum, a management study must contain:

- 11 (1) a description of the agency function;
12 (2) an analysis of the quality and quantity of the
13 work of the agency in relation to that function; and
14 (3) a description of any efficiency initiatives that
15 the agency could implement to perform the function more
16 efficiently.

17 (d) The agency shall submit the completed management study
18 to the commission for approval. After the commission has approved
19 the study, the agency shall estimate the total cost to perform the
20 function and submit each agency in-house cost estimate to the State
21 Auditor for approval. If the agency has an internal auditor, the
22 agency shall submit its cost estimate to its internal auditor for
23 review before forwarding the cost estimate to the State Auditor.

24 SECTION 2.53. Article 13, State Purchasing and General
25 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
26 amended by adding Section 13.031 to read as follows:

27 Sec. 13.031. COMPLAINT FROM PRIVATE ENTERPRISE. (a) In

1 this section, "state agency" has the meaning assigned by Section
2 1.02 of this Act.

3 (b) A person, including a corporation, that manufactures,
4 processes, sells, leases, distributes, provides, or advertises
5 goods or services for profit, or a duly chartered nonprofit
6 corporation engaged in such activities, may file a written
7 complaint with the executive director of the commission and with
8 the administrative head of a state agency alleging that the state
9 agency has engaged in unfair competition with the person or
10 corporation. The agency shall respond to the complaint and shall
11 furnish the complainant and the commission with a copy of its
12 response not later than the 90th day after the date that the agency
13 receives the complaint.

14 (c) The commission shall keep a copy of each written
15 complaint and response received under this section on file and
16 available for public inspection for at least two years after the
17 date that it received the complaint or response.

18 (d) This section does not apply to:

19 (1) the Texas Department of Criminal Justice; or

20 (2) an institution of higher education as defined by
21 Section 61.003, Education Code.

22 SECTION 2.54. Section 13.05, State Purchasing and General
23 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
24 amended to read as follows:

25 Sec. 13.05. DUTIES OF [STATE---PURCHASING---AND] GENERAL
26 SERVICES COMMISSION. (a) The commission by rule shall issue
27 instructions that govern the conduct of state agency management

1 studies under Section 13.03 of this article.

2 (b) The commission shall conduct a cost comparison review.
3 In conducting the cost comparison review, the commission shall:

4 (1) estimate the cost to purchase the service from the
5 private sector. In developing the estimate, the commission may use
6 specific area surveys, state average costs or current bid data;

7 (2) determine if the quality and quantity of service
8 that could be provided through purchase is at least equal to the
9 quality and quantity of service proposed in the agency management
10 study and in-house cost estimate;

11 (3) determine the total state cost incurred in
12 providing the service based on the approved agency in-house cost
13 estimate; and

14 (4) based on estimates of the total cost, compare the
15 total cost to the state to purchase the services with the total
16 state cost of providing the service.

17 (c) ~~(b)~~ After consultation with the agency and State
18 Auditor, the commission shall determine if the total state cost of
19 providing the service exceeds the cost of purchasing the service.
20 If the commission finds that at least the same quality and quantity
21 of service can be purchased at a savings of more than 10 percent,
22 the commission shall notify the chairman of the governing body of
23 the agency and the Privatization Approval Council of Texas of the
24 amount by which the agency's costs exceed the costs of purchasing
25 the service. The commission may request any information from a
26 state agency necessary to accomplish the purpose of this
27 subsection.

1 (d) The commission shall establish internal controls, when
2 the commission conducts competitive cost reviews of its own
3 commercial activity functions, to separate internally the duties
4 performed by the commission as a state agency subject to this
5 article and the duties performed by the commission for all state
6 agencies subject to this article.

7 SECTION 2.55. Section 13.07, State Purchasing and General
8 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
9 amended to read as follows:

10 Sec. 13.07. SAVINGS FROM EFFICIENCY INITIATIVE. Except for
11 savings allocated to the productivity bonus program [~~Article~~
12 ~~6252-29,--Vernon's--Texas--Civil-Statutes~~], and the state employee
13 incentive program (Article 6252-29a [6252-28], Vernon's Texas Civil
14 Statutes), all savings that result from reduced costs under the
15 efficiency initiative shall be used by the agency for treatment,
16 rehabilitation, or other direct services the agency provides to
17 persons it serves or, when savings result to the commission, for
18 direct services the commission provides to state government.

19 SECTION 2.56. Section 13.09, State Purchasing and General
20 Services Act (Article 601b, Vernon's Texas Civil Statutes), as
21 amended by Chapter 551, Acts of the 72nd Legislature, Regular
22 Session, 1991, is amended to read as follows:

23 Sec. 13.09. APPLICATION. The state agencies subject to this
24 article are:

25 (1) the Texas Department of Mental Health and Mental
26 Retardation;

27 (2) the Texas Department of Human Services;

1 (3) the Texas Department of Corrections;
2 (4) the Department of Agriculture;
3 (5) the Central Education Agency;
4 (6) the Texas Higher Education Coordinating Board;
5 [and]
6 (7) the State Department of Highways and Public
7 Transportation; and
8 (8) the commission.

9 SECTION 2.57. Article 13, State Purchasing and General
10 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
11 amended by adding Section 13.10 to read as follows:

12 Sec. 13.10. SUNSET REVIEW OF PROGRAM. (a) The competitive
13 cost review program is subject to Chapter 325, Government Code
14 (Texas Sunset Act), as if the program were a state agency subject
15 to review under that chapter. Unless continued in existence as
16 provided by that chapter, the program is abolished and this article
17 of this Act expires September 1, 1995.

18 (b) To the extent Chapter 325, Government Code (Texas Sunset
19 Act), imposes a duty on a state agency under review, the commission
20 shall perform the duty as it applies to the competitive cost review
21 program.

22 SECTION 2.58. Section 14.01, State Purchasing and General
23 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
24 amended to read as follows:

25 Sec. 14.01. DIVISION. The travel division of the commission
26 is composed of the central travel office and the office of vehicle
27 fleet maintenance. The commission shall adopt rules to implement

1 this article, including rules related to:

2 (1) the structure of travel agency contracts that the
3 commission makes;

4 (2) the procedures the commission uses in requesting
5 and evaluating bids or proposals for travel agency contracts from
6 providers; and

7 (3) the use of negotiated contract rates for travel
8 services by state agencies.

9 SECTION 2.59. Section 14.02, State Purchasing and General
10 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
11 amended to read as follows:

12 Sec. 14.02. CENTRAL TRAVEL OFFICE. (a) The central travel
13 office shall monitor travel reservations and other travel
14 arrangements required for business travel by a state employee or
15 state agency and shall provide travel-related services as
16 delineated by this article. The office shall assist state agencies
17 in minimizing their travel expenses and obtaining the most
18 economical travel arrangements.

19 (b) Each state agency shall [~~It--is--the--intent--of--the~~
20 ~~legislature--that--state--agencies~~] use the services provided by the
21 central travel office for the travel of its employees, in
22 accordance with this article and the rules of the commission [~~to~~
23 ~~the---maximum---extent---consistent---with---improved--economy--and~~
24 ~~efficiency~~]. The commission may exempt a state agency from using
25 some or all the services provided by the office if the commission
26 determines that the exemption would be cost-effective or would
27 benefit the state considering impact on local business or that the

1 office is incapable of providing the exempted services. The
2 commission shall revoke an exemption when the exemption is no
3 longer cost-effective or the office becomes capable of providing
4 the exempted services. An institution of higher education is
5 exempt from using all of the services provided by the office [After
6 approval-by-the-executive-director,-the-central-travel-office-shall
7 designate-state-agencies-that-may-use-the-services-of--the--office-
8 The--executive--director-shall-approve-the-use-of-those-services-by
9 the-designated-state-agencies-after--the--director--of--the--travel
10 division--certifies--to--the--executive--director--that-the-central
11 travel-office-is-capable-of-providing-services].

12 (c) [(b)] The central travel office shall initially provide
13 services to designated agencies located in Travis County and shall
14 extend its services to all state agencies as it develops the
15 capability to do so. The office may negotiate contracts with
16 private travel agents, with travel and transportation providers,
17 and with credit card companies that provide travel services and
18 other benefits to the state. The commission shall divide the state
19 into at least six geographical regions for the purpose of awarding
20 contracts to the providers of travel agency services. The division
21 of the state shall be made in a manner that forms logical parts of
22 the state and promotes the public interest. For each region, the
23 commission shall make contracts with more than one provider of
24 travel agency services. At least one of the contracts for each
25 region must be with a provider of travel agency services that has
26 its principal place of business in the region. Contracts entered
27 into under this section are not subject to the competitive bidding

1 requirements imposed under Article 3 of this Act.

2 (d) A contract with a private travel agent that is entered
3 into by the commission after August 31, 1991, must require the
4 travel agent to include the flights of the State Aircraft Pooling
5 Board in the agent's centralized reservations service for state
6 agencies. The travel agent and the central travel office shall
7 encourage state agencies to use the flights of the board. The
8 office shall cooperate with the board in identifying methods to
9 market the board's flights as a transportation option for state
10 employees.

11 (e) The commission shall provide for an independent audit of
12 the central travel office to be conducted each year. The objective
13 of each audit is to determine whether the state is receiving the
14 most benefits possible under this section. The commission shall
15 promptly transmit a copy of each audit report to the governor,
16 lieutenant governor, speaker of the house of representatives,
17 comptroller, and state auditor.

18 (f) To the extent possible, the [The] comptroller of public
19 accounts and the state auditor shall audit for compliance with the
20 [of] rules adopted by the commission under [to--enforce--the
21 provisions-of] this article [section].

22 SECTION 2.60. Section 14.04, State Purchasing and General
23 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
24 amended to read as follows:

25 Sec. 14.04. FEES. Fees collected by the travel division
26 under this article shall be deposited in the State Treasury to the
27 credit of the General Revenue Fund unless a different disposition

1 of the funds is required under federal law.

2 PART 3. SCHOOL BUSES

3 SECTION 3.01. Section 21.165, Education Code, is amended to
4 read as follows:

5 Sec. 21.165. PURCHASE THROUGH GENERAL SERVICES DEPARTMENT
6 ~~[BOARD---OF---CONTROL]~~. (a) The purchase of motor vehicles
7 (including buses, bus chassis, bus bodies, tires, and tubes) by the
8 General Services Department ~~[Board-of-Control]~~ shall be made in
9 compliance with the provisions of this section.

10 (b) Whenever possible, the ~~[The]~~ purchase must be made on
11 the basis of competitive bids submitted under ~~[such]~~ rules ~~[and~~
12 ~~regulations--as--may--be]~~ made by the General Services Department
13 ~~[Board-of-Control]~~.

14 (c) The purchase must be authorized by a requisition, which
15 may be submitted by either a board of county school trustees or the
16 board of trustees of a school district. The requisition must
17 include a general description of the article or articles desired,
18 as well as any other applicable matter specified in this section.

19 (d) If the requisition is for the purchase of a motor
20 vehicle, bus, bus body, or bus chassis, it must be approved by
21 either the county school board when funded under law or the board
22 of trustees of a school district and by the commissioner of
23 education.

24 (e) If the requisition is for the purchase of tires and
25 tubes, it must be approved by the county superintendent or the
26 chief administrative officer of a school district.

27 (f) If the requisition is for the purchase of special

1 equipment required, because of climatic or road conditions, to
2 guarantee adequate safety and comfort of school children, the
3 requisition must describe the special conditions and requirements
4 so that the General Services Department [~~Board of Control~~] may
5 purchase equipment which it determines to be adapted or designed
6 for the conditions or requirements.

7 (g) The board of county school trustees or board of trustees
8 of a school district shall [~~requisition--must--contain--a~~
9 ~~certification-as-to-the-funds-that-will-be-available--to~~] pay for
10 the article or articles requisitioned as directed by the General
11 Services Department.

12 SECTION 3.02. Section 21.174, Education Code, is amended by
13 adding Subsections (h) and (i) to read as follows:

14 (h) In this section, a vehicle is considered to be capable
15 of using compressed natural gas or other alternative fuels if the
16 vehicle is capable of using compressed natural gas or other
17 alternative fuels either in its original equipment engine or in an
18 engine that has been converted to use compressed natural gas or
19 other alternative fuels after September 1, 1991, unless the time
20 for compliance is extended under Subsection (i) of this section.

21 (i) The General Services Department may extend the date by
22 which a vehicle powered by a traditional gasoline or diesel engine
23 shall be capable of using compressed natural gas or other
24 alternative fuels as required under this section for one or more
25 periods of 90 days, but not beyond September 1, 1993, if it finds a
26 lack of ability to acquire such vehicles with original alternative
27 fuels equipment, to acquire such vehicles which are able to be

1 converted, or to convert such vehicles to use compressed natural
2 gas or other alternative fuels.

3 SECTION 3.03. Section 21.180, Education Code, is amended to
4 read as follows:

5 Sec. 21.180. PURCHASE OF VEHICLES. [~~a~~]~~--Motor--vehicles~~
6 ~~used--for--the--purpose--of--transporting--school--children--including~~
7 ~~school--buses--their--chassis--and/or--bodies--purchased--through--the~~
8 ~~state--board--of--control--shall--be--paid--for--by--the--state--board--of~~
9 ~~control--as--set--out--in--applicable--laws.---The--legislature--may~~
10 ~~appropriate--out--of--any--money--in--the--state--treasury--not--otherwise~~
11 ~~appropriated--a--sum--not--exceeding--\$250,000,--or--as--much--thereof--as~~
12 ~~necessary--for--the--state--board--of--control--to--be--used--for--such~~
13 ~~purposes.~~

14 [~~b~~]~~--Any--sum--appropriated--shall--be--known--as--the--school--bus~~
15 ~~revolving--fund.---When--motor--vehicles--and--school--buses--are--delivered~~
16 ~~to--the--various--schools--coming--within--the--provisions--of--this~~
17 ~~subchapter,--the--governing--bodies--of--those--schools--shall--reimburse~~
18 ~~the--state--board--of--control--for--the--money--expended--for--such--school~~
19 ~~buses--including--their--chassis--and/or--bodies--and--the--money--shall--be~~
20 ~~deposited--by--the--state--board--of--control--in--the--school--bus--revolving~~
21 ~~fund.~~

22 [~~c~~] All purchases of motor vehicles must comply with the
23 alternative fuels use requirements of Section 21.174.

24 SECTION 3.04. Sections 21.182(a), (d), and (h), Education
25 Code, are amended to read as follows:

26 (a) As an alternative to purchasing school buses, a county
27 or local district school board may contract with any person for

1 use, acquisition, or lease with option or options to purchase any
2 school bus or buses if, at the discretion of the school board, such
3 a contract is determined to be economically advantageous to the
4 school district and complies with the alternative fuels
5 requirements of Section 21.174. Contracts may be in the form of a
6 lease or a lease with option or options to purchase. A contract is
7 in the form of a lease if it is a contract for the use and
8 possession of one or more school buses for consideration.
9 Ownership of a bus acquired through a lease or a lease with an
10 option to purchase remains with the lessor unless the lessee
11 exercises an option to purchase and purchases the bus under the
12 option. A school bus that is leased or leased with an option to
13 purchase under this section must meet or exceed the requirements
14 related to safety that apply to purchased or privately operated
15 school buses under Section 11.12. Contracts in the form of an
16 installment purchase or any form other than a lease or a lease with
17 option or options to purchase shall be subject to the provisions of
18 Section 21.165, as well as rules [and-regulations] of the [State
19 Purchasing-and] General Services Department [Commission].

20 (d) The competitive bidding requirements of Section 21.901
21 apply to each contract in the form of a lease or lease with an
22 option to purchase under this section [Each-county-or-district
23 ~~school-board-shall-comply-with-the-terms-of-the--Bond--and--Warrant~~
24 ~~Law--of--1931--(Article--2368a7--Vernon's--Texas-Civil-Statutes)--in~~
25 ~~entering-into-contracts7-including--the--requirement--that--certain~~
26 ~~contracts-be-awarded-pursuant-to-public-bids7-except-that-it-is-not~~
27 ~~necessary--for-a-school-district-to-submit-the-question-of-entering~~

1 ~~into-a-contract-to-a-referendum~~].

2 (h) A contract under this section may have any lawful term
3 of not less than two or more than~~[7-not-to-exceed]~~ 10 years. A
4 county or local district school board that contracts under this
5 section shall report the existence of the contract and the number
6 of buses under the contract to the General Services Department
7 within 45 days after the date the contract was made. A county or
8 local district school board that terminates a contract under this
9 section before the two-year minimum term has expired shall report
10 the termination and the reason for the termination to the General
11 Services Department within 45 days after the date the contract was
12 terminated.

13 SECTION 3.05. Section 21.901, Education Code, is amended by
14 amending Subsections (a) and (b) and adding Subsection (h) to read
15 as follows:

16 (a) Except as provided in this section, all contracts
17 proposed to be made by any Texas public school board for the
18 purchase of any personal property, except produce or vehicle fuel,
19 and except for food and supplies purchased for school food services
20 by food services management companies under Section 21.9013 of this
21 code, shall be submitted to competitive bidding for each of the
22 six-month periods beginning September 1 and March 1 when said
23 property is valued at \$15,000 ~~[\$10,000]~~ or more.

24 (b) Except as provided in Subsection (e) of this section,
25 all contracts proposed to be made by any Texas public school board
26 for the construction, maintenance, repair or renovation of any
27 building or for materials used in said construction, maintenance,

1 repair or renovation, shall be submitted to competitive bidding
2 when said contracts are valued at \$15,000 [~~\$10,000~~] or more. In
3 this section, maintenance includes supervision of custodial, plant
4 operations, maintenance, and ground services personnel.

5 (h) Whenever possible, each contract proposed to be made by
6 any Texas public school board for the lease of one or more school
7 buses, including a lease with an option to purchase, shall be
8 submitted to competitive bidding when the contract is valued at
9 \$10,000 or more.

10 SECTION 3.06. Subchapter Z, Chapter 21, Education Code, is
11 amended by adding Sections 21.9013, 21.9014, and 21.9015 to read as
12 follows:

13 Sec. 21.9013. FOOD SERVICES MANAGEMENT. (a) The board of
14 trustees of a school district that determines it to be in the best
15 interests of the district may delegate to a food services
16 management company the authority to act as the district's agent for
17 the purpose of purchasing the food and supplies required in the
18 performance of a food services management contract between the
19 school district and the food services management company if the
20 food services management company is selected by the board on a
21 competitive basis.

22 (b) Purchases of food and supplies made by the food services
23 management company for the school district must be made in
24 accordance with this subsection. Before commencement of each
25 school year, the food services management company must obtain
26 quotes on behalf of the school district from at least three vendors
27 for each class of food and supplies to be purchased having the

1 capacity to supply the class of food and supplies required by the
2 school district. The management company shall purchase each class
3 of food and supplies from the lowest responsible bidder.

4 (c) The management company shall maintain, as agent for the
5 school district, price lists, quotes, and invoices reflecting the
6 identity of all vendors from whom quotes are obtained, the date
7 contacted, the quantity, and prices of all quotes for the food and
8 supplies to be purchased on behalf of the school district. The
9 documents maintained are public information for purposes of the
10 open records law, Chapter 424, Acts of the 63rd Legislature,
11 Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil
12 Statutes).

13 (d) The food services management company, in purchasing food
14 and supplies for the school district, acts as an agent for the
15 school district. A school district that purchases food and
16 supplies through a food services management company is considered
17 the direct purchaser of the food and supplies. The board of
18 trustees of the school district must approve the purchases, and
19 title to the food and supplies passes directly to the school
20 district from the vendor. The school district is entitled to
21 directly bring any causes of action relating to the purchases,
22 including antitrust causes of action.

23 (e) This section applies only to purchases of personal
24 property by a school district that would otherwise be subject to
25 competitive bidding requirements.

26 (f) This section does not remove the school district from
27 the role of direct purchaser or impair its ability to contract with

1 a food services management company as the district's agent to
2 order, receive, and store purchases of food and supplies, to keep
3 records related to those purchases, and to perform bookkeeping
4 functions, including funding the purchases and submitting
5 reimbursement vouchers for purchases, all in connection with the
6 operation of the school district's school nutrition program.
7 Neither the food services management company nor the school
8 district contracting with the management company is required to
9 comply with Section 21.9014, of this code.

10 Sec. 21.9014. PURCHASES OF PERSONAL PROPERTY VALUED BETWEEN
11 \$10,000 AND \$15,000. (a) A school district may purchase personal
12 property for each of the six-month periods beginning September 1
13 and March 1 as provided by this section if the value of the items
14 is at least \$10,000 but less than \$15,000. In the alternative, the
15 school district may elect to submit a contract for the purchase of
16 those items to competitive bidding as provided by Section 21.901 of
17 this code.

18 (b) For each six-month period, the district shall publish a
19 notice in a newspaper with general circulation in the county in
20 which the district is located specifying the categories of personal
21 property to be purchased under this section and soliciting the
22 names, addresses, and telephone numbers of vendors that are
23 interested in supplying any of the categories to the district. For
24 each category, the district shall create a vendor list consisting
25 of each vendor that responds to the published notice and any
26 additional vendors the district elects to include.

27 (c) Before the district makes a purchase from a category of

1 personal property, the district must obtain written or telephone
2 price quotes from at least three vendors from the list for that
3 category. If fewer than three vendors are on the list, the
4 district shall contact each vendor on the list. Telephone quotes
5 must be confirmed in writing within seven days and the written
6 offers or confirmations must be maintained with the school's
7 competitive bidding records. The purchase shall be made from the
8 lowest responsible bidder.

9 Sec. 21.9015. PURCHASES OF VEHICLE FUEL AND PRODUCE. A
10 school district shall purchase vehicle fuel and produce for each of
11 the six-month periods beginning September 1 and March 1 as provided
12 by Section 21.9014 of this code if the purchases exceed \$10,000 for
13 each six-month period. In the alternative, the school district may
14 elect to submit a contract for those purchases to competitive
15 bidding under Section 21.901 of this code.

16 PART 3A. LOCAL GOVERNMENT PURCHASING

17 SECTION 3A.01. Section 252.021, Local Government Code, is
18 amended to read as follows:

19 Sec. 252.021. COMPETITIVE BIDDING AND COMPETITIVE PROPOSAL
20 REQUIREMENTS. (a) Before a municipality [~~with--50,000--or--more~~
21 ~~inhabitants~~] may enter into a contract that requires an expenditure
22 of more than \$15,000 [~~\$10,000~~] from one or more municipal funds,
23 the municipality must comply with the procedure prescribed by this
24 chapter for competitive sealed bidding or competitive sealed
25 proposals provided, however, all bids for insurance requiring a
26 payment of \$5,000 or more shall be by competitive bids or
27 proposals.

1 (b) [~~Before--a---municipality---with---fewer---than---50,000~~
2 ~~inhabitants--may-enter-into-a-contract-that-requires-an-expenditure~~
3 ~~of--more--than--\$5,000,--the--municipality--must--comply--with--the~~
4 ~~procedure-prescribed-by-this-chapter-for-competitive-sealed-bidding~~
5 ~~or-competitive-sealed-proposals.~~

6 [~~(c)~~] A municipality may use the competitive sealed proposal
7 procedure only for high technology procurements.

8 SECTION 3A.02. Section 271.024, Local Government Code, is
9 amended to read as follows:

10 Sec. 271.024. COMPETITIVE BIDDING PROCEDURE APPLICABLE TO
11 CONTRACT. If a governmental entity is required by statute to award
12 a contract for the construction, repair, or renovation of a
13 structure, road, highway, or other improvement or addition to real
14 property on the basis of competitive bids, and if the contract
15 requires the expenditure of more than \$15,000 [~~\$10,000~~] from the
16 funds of the entity, the bidding on the contract must be
17 accomplished in the manner provided by this subchapter.

18 SECTION 3A.03. Section 252.041(a), Local Government Code, is
19 amended to read as follows:

20 (a) If the competitive sealed bidding requirement applies to
21 the contract, notice of the time and place at which the bids will
22 be publicly opened and read aloud [~~contract-will-be--let~~] must be
23 published at least once a week for two consecutive weeks in a
24 newspaper published in the municipality. The date of the first
25 publication must be before the 14th day before the date set to
26 publicly open the bids and read them aloud [~~let-the-contract~~]. If
27 no newspaper is published in the municipality, the notice must be

1 posted at the city hall for 14 days before the date set to publicly
2 open the bids and read them aloud [~~let-the-contract~~].

3 SECTION 3A.04. Section 252.002, Local Government Code, is
4 amended to read as follows:

5 Sec. 252.002. MUNICIPAL CHARTER CONTROLS IN CASE OF
6 CONFLICT. Any provision in the charter of a home-rule municipality
7 that relates to the notice of contracts, advertisement of the
8 notice, requirements for the taking of sealed bids based on
9 specifications for public improvements or purchases, [~~or~~] the
10 manner of publicly opening bids or reading them aloud, or the
11 manner of letting contracts and that is in conflict with this
12 chapter controls over this chapter unless the municipality elects
13 to have this chapter supersede the charter.

14 SECTION 3A.05. Sections 271.055(a) and (b), Local Government
15 Code, are amended to read as follows:

16 (a) An issuer must give notice of the time, date, and place
17 at which the issuer will publicly open the bids on a contract [~~let~~
18 ~~a-contract~~] for which competitive bidding is required by this
19 subchapter and read the bids aloud. The notice must be given in
20 accordance with Subsection (b) or in accordance with:

21 (1) Chapter 252, if the issuer is a municipality;

22 (2) the municipal charter of the issuer, if the issuer
23 is a home-rule municipality; or

24 (3) the County Purchasing Act (Subchapter C, Chapter
25 262), if the issuer is a county.

26 (b) If an issuer gives notice under this subsection, the
27 notice must:

1 (1) be published once a week for two consecutive weeks
2 in a newspaper, as defined by Chapter 84, Acts of the 43rd
3 Legislature, 1st Called Session, 1933 (Article 28a, Vernon's Texas
4 Civil Statutes), that is of general circulation in the area of the
5 issuer, with the date of the first publication to be before the
6 14th day before the date set for the public opening of the bids and
7 the reading of the bids aloud [~~receipt-of-bids~~]; and

8 (2) state that plans and specifications for the work
9 to be done or specifications for the machinery, supplies,
10 equipment, or materials to be purchased are on file with a
11 designated official of the issuer and may be examined without
12 charge.

13 SECTION 3A.06. Section 252.022(a), Local Government Code, as
14 amended by Chapter 42, Acts of the 72nd Legislature, Regular
15 Session, 1991, is amended to read as follows:

16 (a) This chapter does not apply to an expenditure for:

17 (1) a procurement made because of a public calamity
18 that requires the immediate appropriation of money to relieve the
19 necessity of the municipality's residents or to preserve the
20 property of the municipality;

21 (2) a procurement necessary to preserve or protect the
22 public health or safety of the municipality's residents;

23 (3) a procurement necessary because of unforeseen
24 damage to public machinery, equipment, or other property;

25 (4) a procurement for personal or professional
26 services;

27 (5) a procurement for work that is performed and paid

1 for by the day as the work progresses;

2 (6) a purchase of land or a right-of-way;

3 (7) a procurement of items that are available from
4 only one source, including:

5 (A) items that are available from only one
6 source because of patents, copyrights, secret processes, or natural
7 monopolies;

8 (B) films, manuscripts, or books;

9 (C) electricity, gas, water, and other utility
10 services;

11 (D) captive replacement parts or components for
12 equipment;

13 (E) books, papers, and other library materials
14 for a public library that are available only from the persons
15 holding exclusive distribution rights to the materials; and

16 (F) management services provided by a nonprofit
17 organization to a municipal museum, park, zoo, or other facility to
18 which the organization has provided significant financial or other
19 benefits;

20 (8) a purchase of rare books, papers, and other
21 library materials for a public library;

22 (9) paving drainage, street widening, and other public
23 improvements, or related matters, if at least one-third of the cost
24 is to be paid by or through special assessments levied on property
25 that will benefit from the improvements;

26 (10) a public improvement project, authorized by the
27 voters of the municipality, for which there is a deficiency of

1 funds for completing the project in accordance with the plans and
2 purposes authorized by the voters;

3 (11) a payment under a contract by which a developer
4 participates in the construction of a public improvement as
5 provided by Subchapter C, Chapter 212; ~~and~~

6 (12) personal property sold:

7 (A) at an auction by a state licensed
8 auctioneer;

9 (B) at a going out of business sale held in
10 compliance with Subchapter F, Chapter 17, Business & Commerce Code;
11 or

12 (C) by a political subdivision of this state, a
13 state agency of this state, or an entity of the federal government;
14 and

15 (13) services performed by blind or severely disabled
16 persons.

17 SECTION 3A.07. Section 252.043, Local Government Code, is
18 amended to read as follows:

19 Sec. 252.043. AWARD OF CONTRACT. (a) If the competitive
20 sealed bidding requirement applies to the contract, the contract
21 must be awarded to the lowest responsible bidder. The governing
22 body may reject any and all bids.

23 (b) If the competitive sealed proposals requirement applies
24 to the contract, the contract must be awarded to the responsible
25 offeror whose proposal is determined to be the most advantageous to
26 the municipality considering the relative importance of price and
27 the other evaluation factors included in the request for proposals.

1 (c) Except for contracts involving the construction of
2 improvements to real property, the governing body may give
3 preference to a bid that is submitted by a bidder who is a resident
4 bidder, if the cost does not exceed by more than two percent the
5 bid of a nonresident bidder. In this subsection, "resident bidder"
6 means a bidder whose principal place of business is located within
7 the county in which the municipality is located.

8 PART 4. ARCHITECTURAL BARRIERS

9 SECTION 4.01. Article 7, State Purchasing and General
10 Services Act (Article 601b, Vernon's Texas Civil Statutes), is
11 transferred to Title 132A, Revised Statutes, redesignated as
12 Article 9102, Revised Statutes, and amended to read as follows:

13 Art. 9102 [ARTICLE-7]. ARCHITECTURAL BARRIERS

14 Sec. 1 [7-01]. POLICY. The provisions of this article are
15 to further the policy of the State of Texas to encourage and
16 promote the rehabilitation of persons with disabilities
17 [~~handicapped--or--disabled--citizens~~] and to eliminate, insofar as
18 possible, unnecessary barriers encountered by [~~aged--handicapped--~~
19 ~~or--disabled~~] persons with disabilities, whose ability to engage in
20 gainful occupations or to achieve maximum personal independence is
21 needlessly restricted when such persons cannot readily use public
22 buildings.

23 Sec. 2 [7-02]. APPLICATION. (a) The standards and
24 specifications adopted under this article shall apply to all
25 buildings and facilities used by the public which are constructed
26 in whole or in part by the use of state, county, or municipal
27 funds, or the funds of any political subdivision of the state. To

1 such extent as is not contraindicated by federal law or beyond the
2 state's power of regulation, these standards shall also apply to
3 buildings and facilities constructed in this state through partial
4 or total use of federal funds. All buildings and facilities
5 constructed in this state, or substantially renovated, modified, or
6 altered, after the effective date of this article from any one of
7 these funds or any combination thereof shall conform to each of the
8 standards and specifications adopted under this article except
9 where the governmental department, agency, or unit concerned shall
10 determine, after taking all circumstances into consideration, that
11 full compliance with any particular standard or specification is
12 impracticable. Where it is determined that full compliance with
13 any particular standard or specification is impractical, the
14 reasons for such determination shall be set forth in written form
15 by those making the determination and forwarded to the department
16 [~~commission~~]. If it is determined that full compliance is not
17 practicable, there shall be substantial compliance as determined by
18 the department with the standard or specification to the maximum
19 extent practical, and the file system maintained by the department
20 shall include the written record of the determination that it is
21 impractical to comply fully with a particular standard or
22 specification and shall also set forth the extent to which an
23 attempt will be made to comply substantially with the standard or
24 specification.

25 (b) These standards and specifications shall be adhered to
26 in those buildings and facilities under construction on the
27 effective date of this article, unless the authority responsible

1 for the construction shall determine that the construction has
2 reached a state where compliance is impractical. This article
3 shall apply to temporary or emergency construction as well as
4 permanent buildings.

5 (c) These standards and specifications shall be adhered to
6 in all buildings leased or rented in whole or in part for use by
7 the state under any lease or rental agreement entered into on or
8 after January 1, 1972. To such extent as is not contraindicated by
9 federal law or beyond the power of the state's regulation, these
10 standards shall also apply to buildings or facilities leased or
11 rented for use by the state through partial or total use of federal
12 funds. Facilities which are the subject of lease or rental
13 agreements on January 1, 1972, will not be required to meet
14 standards and specifications for the term of the existing lease or
15 rental agreement but must be brought into compliance before a lease
16 or rental agreement is renewed. Where it is determined by the
17 governmental department, agency, or unit concerned that full
18 compliance with any particular standard is impractical, the reasons
19 for such determination shall be set forth in written form by those
20 making the determination and forwarded to the department
21 ~~[commission]~~. If it is determined that full compliance is not
22 practical, there shall be substantial compliance as determined by
23 the department with the standard or specification to the maximum
24 extent practical, and the file system maintained by the department
25 shall include the written record of the determination that it is
26 impractical to comply fully with a particular standard or
27 specification and shall also set forth the extent to which an

1 attempt will be made to comply substantially with the standard or
2 specification.

3 (d) Except as otherwise provided in Subsection (e) of this
4 section, these standards and specifications shall be adhered to in
5 buildings defined as "public accommodation" by Section 301(7) of
6 the Americans with Disabilities Act (ADA) of 1990 (P.L. 101-336)
7 which are constructed or substantially renovated, modified, or
8 altered on or after January 1, 1992 [~~certain-privately-financed~~
9 ~~buildings, building-elements, and-improved-areas-which-are-open--to~~
10 ~~public---use---for---education,---employment,---transportation,--or~~
11 ~~acquisition-of-goods-and-services,--and-which-are-constructed-on--or~~
12 ~~after--January--1,--1978,--in-counties-with-a-population-of-45,000-or~~
13 ~~more.--Such-facilities-include-the-following:~~

14 [~~(1)--shopping-centers-which-contain-in-excess-of--five~~
15 ~~separate--mercantile--establishments,--compliance-with-accessibility~~
16 ~~standards-and-specifications-relative-to--toilet--rooms--shall--not~~
17 ~~apply--unless--the--shopping--center--elects--to-have-public-toilet~~
18 ~~rooms;~~

19 [~~(2)--passenger-transportation-terminals;~~

20 [~~(3)--theaters--and--auditoriums---having---a---seating~~
21 ~~capacity-for-200-or-more-patrons;~~

22 [~~(4)--hospitals--and--related--medical-facilities-which~~
23 ~~provide-direct-medical-service-to-patients;~~

24 [~~(5)--nursing-homes-and-convalescent-centers;~~

25 [~~(6)--buildings-containing-an-aggregate-total-of-20,000~~
26 ~~or-more-square-feet-of-recognizable-office-floor-space;~~

27 [~~(7)--funeral-homes,--and~~

1 ~~[(8)--commercial-business-and-trade-schools]~~.

2 (e) The commissioner [~~commission~~] shall have the authority
3 to waive or modify accessibility standards and specifications when
4 application of such standards and specifications is considered by
5 the commissioner [~~commission~~] to be irrelevant to the nature, use,
6 or function of a building or facility covered by this article. The
7 commissioner [~~commission~~] shall not waive or modify any standard or
8 specification when such action would result in a significant
9 impairment of the acquisition of goods and services by
10 [~~handicapped~~] persons with disabilities or substantially reduce the
11 potential for employment of [~~handicapped~~] persons with
12 disabilities. All evidence supporting waiver or modification
13 determinations made by the commissioner [~~commission~~] shall be made
14 a matter of record and become part of the file system maintained by
15 the department [~~commission~~].

16 (f) All buildings and facilities covered by this article
17 shall provide restroom facilities in conformance with the minimum
18 plumbing facilities standards set forth in Appendix C of the most
19 recent Uniform Plumbing Code.

20 Sec. 3 [~~7-03~~]. SCOPE. (a) This article is concerned with
21 nonambulatory disabilities, semiambulatory disabilities, sight
22 disabilities, hearing disabilities, disabilities of coordination,
23 and aging.

24 (b) It is intended to make all buildings and facilities
25 covered by this article accessible to, and functional for, persons
26 with disabilities [~~the-physically--handicapped~~] to, through, and
27 within their doors, without loss of function, space, or facilities

1 where the general public is concerned.

2 Sec. 4 [7-04]. DEFINITIONS. For the purpose of this article
3 the following terms have the meanings as herein set forth:

4 (1) "Nonambulatory disabilities" means impairments
5 that, regardless of cause or manifestation, for all practical
6 purposes, confine individuals to wheelchairs.

7 (2) "Semiambulatory disabilities" means impairments
8 that cause individuals to walk with difficulty or insecurity.
9 Individuals using braces or crutches, amputees, arthritics,
10 spastics, and those with pulmonary and cardiac ills may be
11 semiambulatory. The listing here made is illustrative and shall
12 not be construed as being exhaustive.

13 (3) "Sight disabilities" means total blindness or
14 impairments affecting sight to the extent that the individual
15 functioning in public areas is insecure or exposed to danger.

16 (4) "Hearing disabilities" means deafness or hearing
17 handicaps that might make an individual insecure in a public area
18 because he is unable to communicate or hear warning signals.

19 (5) "Disabilities of coordination" means faulty
20 coordination or palsy from brain, spinal, or peripheral nerve
21 injury.

22 (6) "Aging" means those manifestations of the aging
23 processes that significantly reduce mobility, flexibility,
24 coordination, and perceptiveness but are not accounted for in the
25 aforementioned categories.

26 (7) "Commission" means the Texas Commission of
27 Licensing and Regulation.

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1 (8) "Commissioner" means the commissioner of licensing
2 and regulation.

3 (9) "Department" means the Texas Department of
4 Licensing and Regulation.

5 (10) "Architect" means a person registered as an
6 architect under Chapter 478, Acts of the 45th Legislature, Regular
7 Session, 1937 (Article 249a, Vernon's Texas Civil Statutes).

8 (11) "Engineer" means a person registered as an
9 engineer under The Texas Engineering Practice Act (Article 3271a,
10 Vernon's Texas Civil Statutes).

11 Sec. 5 [7-05]. RESPONSIBILITIES FOR ENFORCEMENT. (a) In
12 the [The-responsibility-for] administration and enforcement of this
13 article [shall--reside--primarily--in--the--commission], [but] the
14 commissioner [commission] shall have the assistance of appropriate
15 state rehabilitation agencies in carrying out commissioner [its]
16 responsibilities [under-this-article]. State agencies involved in
17 extending direct services to [disabled-or-handicapped] persons with
18 disabilities are authorized to enter into interagency contracts
19 with the department [commission] to provide such additional funding
20 as might be required to insure that service objectives and
21 responsibilities of such agencies are achieved through the
22 administration of this article. In enforcing this article the
23 commissioner [commission] shall also receive the assistance of all
24 appropriate elective or appointive state officials. The
25 commissioner may contract with other state agencies, political
26 subdivisions, nonprofit organizations, and private independent
27 contractors to perform the commissioner's review and inspection

1 functions for privately financed buildings that are not leased by
2 the state or a political subdivision and may terminate those
3 contracts for cause. The department [~~commission~~] shall from time
4 to time inform professional organizations and others, including
5 persons with disabilities, architects, engineers, and other
6 building professionals, of this law and its application.
7 Information disseminated by the department about the program shall
8 include the types of buildings and leases covered by this article,
9 the procedures for submitting plans and specifications for review,
10 complaint procedures, and the address and phone number of the
11 department's program. The department may enter into cooperative
12 agreements to integrate information about the program with
13 information produced or distributed by other public entities or by
14 private entities.

15 (b) The commissioner [~~commission~~] shall have all necessary
16 powers to require compliance with the commissioner's [~~its~~] rules
17 and regulations and modifications thereof and substitutions
18 therefor, including powers to institute and prosecute proceedings
19 under Section 18, Article 9100, Revised Statutes [~~in-the-district~~
20 ~~court-to-compel-such-compliance~~], and shall not be required to pay
21 any entry or filing fee in connection with the institution of such
22 proceedings. The commission may also impose an administrative
23 penalty under Section 17, Article 9100, Revised Statutes, on a
24 building owner for a violation of this article or a rule adopted
25 under this article. Each day that the violation is not corrected
26 constitutes a separate violation. The commissioner [~~commission~~] or
27 a [~~handicapped~~] person with disabilities who seeks injunctive

1 relief to obtain compliance with the rules and regulations, and the
2 commissioner when the commission considers imposing an
3 administrative penalty under this section, shall first notify a
4 person responsible for the building and allow that person 90 days
5 to bring the building into compliance. The commissioner
6 [~~commission~~] shall have the authority to extend the 90-day period
7 when circumstances justify such extension.

8 (c) [~~The commission is authorized to promulgate such rules~~
9 ~~and regulations as might reasonably be required to implement and~~
10 ~~enforce this article.~~] The standards and specifications to be
11 adopted by the commissioner [~~commission~~] under this article shall
12 be consistent in effect to those adopted by the American National
13 Standards Institute, Inc. (or its federally recognized successor in
14 function), and the department [~~commission~~] shall publish the
15 standards and specifications in a readily accessible form for the
16 use of interested parties.

17 (d) All plans and specifications for construction or for the
18 substantial renovation, modification, or alteration of buildings
19 subject to the provisions of this article shall be submitted to the
20 department [~~commission~~] for review and approval prior to the time
21 that construction or that substantial renovation, modification, or
22 alteration on the building begins [~~bidding and award of contract~~]
23 in accordance with rules and regulations adopted by the
24 commissioner [~~commission~~]. The plans and specifications shall be
25 submitted to the department by the architect or engineer who has
26 overall responsibility for the design of the constructed or
27 reconstructed building. The building owner shall submit the plans

1 and specifications to the department if there is no architect or
2 engineer with that responsibility. Likewise, any substantial
3 modification of approved plans shall be resubmitted to the
4 department [commission] for review and approval. If an architect
5 or engineer required to submit or resubmit plans and specifications
6 to the department fails to do so in a timely manner, the
7 commissioner shall report the fact to the Texas Board of
8 Architectural Examiners or the State Board of Registration for
9 Professional Engineers, as appropriate.

10 (e) The commissioner [commission] may review plans and
11 specifications, make inspections, and issue certifications that
12 structures not otherwise covered by this article are free of
13 architectural barriers and in compliance with the provisions of
14 this article. The department shall inspect each building subject
15 to this article within the first year after the date that
16 construction or substantial renovation, modification, or alteration
17 of the building is completed. The department shall inspect each
18 building that is subject to this article because of a lease to the
19 state during the first year of the lease [commission-is-authorized
20 to-charge-a-fee, not-to-exceed--\$100,--for--review--of--plans--and
21 specifications,--inspection,--and--certification--of--each--privately
22 owned-building-or-facility.

23 [f)--With-respect-to-buildings-and-facilities-that-are-under
24 the-jurisdiction-and-control-of-The-University-of--Texas--Board--of
25 Regents,--the--responsibility-for-administration-and-enforcement-of
26 this-article-shall-reside-in--such--governing--board,--and--in--the
27 discharge-of-such-responsibility-the-governing-board-shall-have-the

1 same--responsibilities,--duties,--powers,--and--authority--that--are
2 herein-imposed-on-and-delegated-to-the-commission-with--respect--to
3 all-other-buildings-and-facilities-covered-by-this-article].

4 Sec. 6. The commission shall set and charge, in accordance
5 with Section 12, Article 9100, Revised Statutes, fees for
6 performing its functions under this article. The fees shall be
7 paid by the owner of a building when the department performs a
8 function related to the building under this article. The fees must
9 include a fee for:

10 (1) reviewing the plans or specifications of a
11 building;

12 (2) inspecting a building; and

13 (3) processing a request to waive or modify
14 accessibility standards for a building.

15 Sec. 7. (a) The commission shall appoint an advisory
16 committee for the architectural barriers program. The committee
17 shall be composed of building professionals and persons with
18 disabilities who are familiar with architectural barrier problems
19 and solutions. The committee shall be composed of at least eight
20 members. Persons with disabilities must make up a majority of the
21 membership.

22 (b) A committee member serves at the will of the commission.
23 A member may not receive compensation for service on the committee
24 but is entitled to reimbursement for actual and necessary expenses
25 incurred in performing functions as a member.

26 (c) The committee shall elect a member of the committee as
27 chair. The committee shall meet at least twice each calendar year

1 at the call of the committee chair or at the call of the
2 commissioner.

3 (d) The committee periodically shall review the rules
4 relating to the architectural barriers program and recommend
5 changes in the rules to the commission and the commissioner. The
6 commissioner shall submit all proposed changes to rules and
7 procedures that relate to the architectural barriers program to the
8 committee for review and comment before adoption or implementation
9 of the new or amended rule or procedure.

10 Sec. 8. All references in law to the former architectural
11 barriers statute, Article 7, State Purchasing and General Services
12 Act (Article 601b, Vernon's Texas Civil Statutes), mean this
13 article.

14 SECTION 4.02. Section 11(b), Chapter 478, Acts of the 45th
15 Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas
16 Civil Statutes), as amended by Chapter 579, Acts of the 72nd
17 Legislature, Regular Session, 1991, is amended to read as follows:

18 (b) The Board may revoke or suspend a registration
19 certificate, place on probation a person whose registration
20 certificate has been suspended, reprimand a person registered under
21 this Act, or assess an administrative penalty against a person
22 registered under this Act in an amount not to exceed \$1,000 on the
23 following grounds:

24 (1) a violation of this Act or of a rule of the Board
25 adopted under this Act;

26 (2) a cause for which the Board is authorized to
27 refuse to grant a registration certificate;

- 1 (3) gross incompetency;
- 2 (4) recklessness in the construction or alteration of
- 3 a building by an architect designing, planning, or observing the
- 4 construction or alteration; [or]
- 5 (5) dishonest practice by one holding a registration
- 6 certificate; or
- 7 (6) for failing to timely provide plans and
- 8 specifications to the Texas Department of Licensing and Regulation
- 9 as required by Article 9102, Revised Statutes.

10 SECTION 4.03. Subsection (a), Section 22, The Texas

11 Engineering Practice Act (Article 3271a, Vernon's Texas Civil

12 Statutes), is amended to read as follows:

13 (a) The Board shall revoke, suspend, or refuse to renew a

14 registration, shall reprimand a registrant, may deny an application

15 for registration, or may probate any suspension of any registrant

16 who is determined by the Board to be censurable for:

17 (1) The practice of any fraud or deceit in obtaining a

18 certificate of registration;

19 (2) Any gross negligence, incompetency, or misconduct

20 in the practice of professional engineering as a registered

21 professional engineer;

22 (3) Any documented instance of retaliation by an

23 applicant against an individual who has served as a reference for

24 that applicant; [or]

25 (4) A violation of this Act or a Board rule; or

26 (5) A failure to timely provide plans and

27 specifications to the Texas Department of Licensing and Regulation

1 as required by Article 9102, Revised Statutes.

2 PART 5. OTHER MATTERS RELATING TO STATE

3 ACQUISITION AND USE OF PROPERTY AND SERVICES

4 SECTION 5.01. Section 9, Texas Public Finance Authority Act
5 (Article 601d, Vernon's Texas Civil Statutes), is amended to read
6 as follows:

7 Sec. 9. ISSUANCE OF BONDS. (a) The board may issue and
8 sell bonds in the name of the authority to finance projects that
9 consist of the acquisition or construction of buildings in Travis
10 County, Texas. Upon receiving a request described in Section 5.34,
11 State Purchasing and General Services Act (Article 601b, Vernon's
12 Texas Civil Statutes), the board may issue bonds in amounts up to
13 the previously authorized amount of bonds plus five percent of the
14 acquisition cost of the property, all as described in the request.

15 (b) When the acquisition or construction of a building has
16 been authorized in accordance with this Act or under Section 5.34,
17 State Purchasing and General Services Act (Article 601b, Vernon's
18 Texas Civil Statutes), the board shall promptly issue and sell
19 bonds in the name of the authority under this Act, including
20 Sections 10B and 16 of this Act, to finance the acquisition or
21 construction of the building. When the proceeds from the bond
22 issuance are available, the board shall promptly deposit the
23 proceeds in the state treasury under Section 23 of this Act and
24 shall promptly make the determinations that are to be made by the
25 board under Section 23 of this Act.

26 (c) The commission or other state agency involved in
27 acquiring or constructing a building financed by the issuance of

1 bonds under this Act shall carry out its statutory authority as if
2 the building were financed by legislative appropriation. The board
3 and either the commission or another state agency involved in the
4 acquisition or construction of a building shall adopt a memorandum
5 of understanding that defines the division of authority between the
6 board and the commission or agency.

7 SECTION 5.02. Section 24A(c), Texas Public Finance Authority
8 Act (Article 601d, Vernon's Texas Civil Statutes), is amended to
9 read as follows:

10 (c) Notwithstanding the limitations prescribed by Section 9
11 of this Act relating to the location of buildings for which bonds
12 may be issued, the authority may issue bonds under this Act to
13 finance the renovation of West Building, G. J. Sutton State Office
14 Complex in Bexar County, at an estimated cost of \$1,375,000; the
15 construction or purchase and renovation of a building or buildings
16 by the State Purchasing and General Services Commission in Tarrant
17 County, at an estimated cost of \$10,000,000; ~~[and]~~ the construction
18 or purchase and renovation of a building or buildings by the State
19 Purchasing and General Services Commission in Harris County, at an
20 estimated cost of \$20,000,000; and the construction by the State
21 Purchasing and General Services Commission of a state office
22 building on land owned by The Texas A&M University System in Nueces
23 County, at an estimated cost of \$10,000,000. For purposes of this
24 subsection regarding Tarrant and Harris counties, the State
25 Purchasing and General Services Commission shall, prior to
26 requesting the authority to issue bonds, prepare project analyses
27 for the potential construction projects and subsequent thereto

1 perform an alternative purchase analysis pursuant to the provisions
2 of Section 5.34, State Purchasing and General Services Act (Article
3 601b, Vernon's Texas Civil Statutes).

4 SECTION 5.03. Section 27, Texas Public Finance Authority Act
5 (Article 601d, Vernon's Texas Civil Statutes), as amended by
6 Chapters 786 and 1042, Acts of the 71st Legislature, Regular
7 Session, 1989, is amended to read as follows:

8 Sec. 27. PURCHASE AND RENOVATION OF TEXAS EMPLOYMENT
9 COMMISSION PROPERTY. (a) The Texas Employment Commission shall
10 sell to the commission office buildings and parking facilities in
11 its possession in or near the Capitol Complex, and the commission
12 shall purchase the buildings and parking facilities, at a sales
13 price that shall not exceed the maximum amount of funds authorized
14 for the acquisition and renovation in Chapter 700, Acts of the 68th
15 Legislature, Regular Session, 1983. [~~The sale shall be under an~~
16 ~~agreement between the Texas Employment Commission and the~~
17 ~~commission on a price sufficient to provide the Texas Employment~~
18 ~~Commission adequate, alternative office and parking space outside~~
19 ~~the Capitol Complex and with the necessary concurrence of the~~
20 ~~United States government.~~]

21 (b) [~~The commission shall, under an agreement with the Texas~~
22 ~~Employment Commission and subject to the availability of funds~~
23 ~~authorized by this Act, purchase the office buildings and parking~~
24 ~~facilities of the Texas Employment Commission located in or near~~
25 ~~the Capitol Complex.~~] After the office buildings have been
26 acquired, the commission may, from funds made available by the
27 authority, renovate the facilities as necessary for occupancy by

1 other state agencies. In negotiating the price for the Texas
2 Employment Commission facilities, the commission shall consider the
3 cost to the Texas Employment Commission of alternative space
4 outside the Capitol Complex. The commission shall also consider
5 the price in the context of the reasonable rates that might
6 otherwise be paid by prospective occupying state agencies for rent
7 in comparable space.

8 [Sec.--27.--(a)--The-State--Purchasing--and--General--Services
9 Commission--may--take--possession--of--the--office--buildings--and--parking
10 facilities--in--or--near--the--Capitol--Complex--occupied--by--the--Texas
11 Employment--Commission.--To--take--possession--the--State--Purchasing
12 and--General--Services--Commission--must--provide--the--Texas--Employment
13 Commission--adequate,--alternative--office--and--parking--space--in--the
14 city--of--Austin--and--obtain--the--necessary--concurrence--that--may--be
15 required--by--the--United--States--government.--On--receiving--that
16 concurrence,--title--to--the--property--is--in--the--State--Purchasing--and
17 General--Services--Commission,--and--the--employment--commission--and
18 purchasing--commission--shall--execute--the--documents--necessary--to--show
19 title--in--the--purchasing--commission.

20 [(b)--If--the--State--Purchasing--and--General--Services--Commission
21 takes--possession--of--the--office--buildings--and--parking--facilities--of
22 the--Texas--Employment--Commission--located--in--or--near--the--Capitol
23 Complex,--the--State--Purchasing--and--General--Services--Commission--may,
24 from--funds--made--available--by--the--authority--or--from--other--available
25 funds,--renovate--the--facilities--as--necessary--for--occupancy--by--other
26 state--agencies--or--by--the--legislature--or--legislative--agencies.
27 Before--renovating--the--facilities--or--making--the--facilities--available

1 for occupancy to a state agency, the purchasing commission shall
2 offer the space to the legislature for its use and occupancy. For
3 that purpose, the purchasing commission shall notify the lieutenant
4 governor and the speaker of the house in writing, who may claim the
5 property for the use and occupancy of the legislature and
6 legislative agencies by delivering a written notice signed by both
7 officers to the executive director of the commission. The notice
8 must be delivered to the executive director before the 120th day
9 after the date on which those officers receive notice of the
10 availability of the property.

11 [(c) If at any time the lieutenant governor and the speaker
12 deliver a written notice, signed by each, to the executive director
13 of the purchasing commission stating that the employment commission
14 facilities in or near the Capitol Complex are necessary for
15 legislative use and occupancy, the property shall be made available
16 for that use and occupancy as soon as possible but not later than
17 the second anniversary of the date on which the executive director
18 of the purchasing commission receives the notice from the
19 lieutenant governor and the speaker. If the employment commission
20 is at that time in possession of the property:

21 [(1) the purchasing commission shall take possession
22 of the property and the employment commission shall vacate the
23 property;

24 [(2) from funds made available by the authority or
25 from funds appropriated for that purpose, the purchasing commission
26 shall purchase or construct adequate, alternative office and
27 parking space in the city of Austin for the employment commission

1 and--shall-obtain-the-necessary-concurrence-that-may-be-required-by
2 the-United-States-government;-and

3 [+3)--on--receiving--that--concurrence;-title--to--the
4 property--is--in--the--purchasing--commission--and--the--purchasing
5 commission-and-employment-commission-shall--execute--the--documents
6 necessary-to-show-title-in-the-purchasing-commission-

7 [+d)--Subject--to--the--availability-of-funds;-the-purchasing
8 commission-may-renovate-facilities--purchased--for--the--employment
9 commission-as-necessary-for-occupancy-by-the-employment-commission-
10 Any--available-funds-remaining-after-purchase-and-renovation-of-the
11 facilities-for--the--employment--commission--may--be--used--by--the
12 purchasing--commission-to-renovate-the-facilities-of-the-employment
13 commission--transferred--under--this--section--as---necessary---for
14 occupancy--by--state--agencies--or--the-legislature-and-legislative
15 agencies-]

16 SECTION 5.04. Subchapter Z, Chapter 51, Education Code, is
17 amended by adding Sections 51.926 and 51.927 to read as follows:

18 Sec. 51.926. WRITTEN CONTRACTS OR AGREEMENTS BETWEEN CERTAIN
19 INSTITUTIONS. (a) In this section, "governing board" and
20 "institution of higher education" have the meanings assigned by
21 Section 61.003 of this code.

22 (b) A written contract or agreement for the furnishing of
23 resources or services that is between institutions of higher
24 education with a common governing board is not subject to the
25 requirements of Chapter 771, Government Code, if the governing
26 board has adopted rules providing for governing board review and
27 approval of those contracts.

1 Sec. 51.927. ENERGY CONSERVATION MEASURES. (a) The
2 governing board of an institution of higher education may enter
3 into a contract for energy conservation measures to reduce energy
4 consumption or operating costs of institutional facilities in
5 accordance with this section.

6 (b) A contract to which this section applies includes a
7 contract for the installation of:

8 (1) insulation of a building structure and systems
9 within a building;

10 (2) storm windows or doors, caulking or weather
11 stripping, multiglazed windows or doors, heat-absorbing or
12 heat-reflective glazed and coated window or door systems, or other
13 window or door system modifications that reduce energy consumption;

14 (3) automatic energy control systems, including
15 computer software and technical data licenses;

16 (4) heating, ventilating, or air-conditioning system
17 modifications or replacements;

18 (5) lighting fixtures that increase energy efficiency;

19 (6) energy recovery systems;

20 (7) electric systems improvements; or

21 (8) other energy conservation-related equipment.

22 (c) The person with whom the board contracts must be
23 experienced in the design, implementation, and installation of
24 energy conservation measures.

25 (d) Before entering into a contract for energy conservation
26 measures, the board shall require the provider of the energy
27 conservation measures to file with the board a performance bond

1 that is in an amount the board finds reasonable and necessary to
2 protect the interests of the institution and is conditioned on the
3 faithful execution of the terms of the contract.

4 (e) The board may enter into a contract for a period of more
5 than one year for energy conservation measures with a person if the
6 board finds that the amount the institution would spend on the
7 energy conservation measures will not exceed the amount to be saved
8 in energy and operating costs over 10 years from the date of
9 installation. If the term of a contract for energy conservation
10 measures exceeds one year, the board's contractual obligation in
11 any year during the term of the contract may not exceed the total
12 energy and operating cost savings, including but not limited to
13 electrical, gas, or other utility cost savings and operating cost
14 savings resulting from automatic monitoring and control, as
15 determined by the board in this subsection, divided by the number
16 of years in the contract term. The board shall consider all costs
17 of the energy conservation measures, including costs of design,
18 engineering, installation, maintenance, repairs, and debt service.

19 (f) A contract for energy conservation measures may be a
20 lease/purchase contract, with a term not to exceed 10 years, that
21 meets federal tax requirements for tax-free municipal leasing or
22 long-term financing.

23 (g) A contract under this section may be let under
24 competitive sealed proposal procedures. Notice of the request for
25 proposals shall be given in the manner provided for in Section
26 3.12, Article 601b, Revised Statutes. The notice of the request
27 for proposals shall be provided to the office of the governor for

1 review and comment at least 30 days prior to any contract award.
2 The contract shall be awarded to the responsible offeror whose
3 proposal, following negotiations, is determined by the institution
4 to be the most advantageous to the institution considering the
5 guaranteed savings and other evaluation factors set forth in the
6 request for proposals, except that if the institution finds that no
7 offer is acceptable, it shall refuse all offers.

8 (h) In accordance with regulations adopted by the
9 institution, the institution may conduct discussions with offerors
10 who submit proposals and who are determined to be reasonably
11 qualified for the award of the contract. Offerors shall be treated
12 fairly and equally with respect to any opportunity for discussion
13 and revision of proposals. To obtain the best final offers, the
14 institution may allow proposal revisions after submissions and
15 before the award of the contract.

16 (i) If provided in a request for proposals under Subsection
17 (g) of this section, proposals shall be opened in a manner that
18 avoids disclosure of the contents to competing offerors and keeps
19 the proposals secret during negotiations. All proposals are opened
20 for public inspection after a contract is awarded unless the
21 information is excepted from disclosure under Article 6252-17a,
22 Revised Statutes.

23 SECTION 5.05. Subchapter E, Chapter 12, Health and Safety
24 Code, is amended by adding Section 12.053 to read as follows:

25 Sec. 12.053. INVENTORY REQUIREMENTS. All equipment and
26 supplies that are purchased through a program, contract, or grant
27 with the department by or for qualified entities, including but not

1 limited to individuals, corporations, local units of government,
2 and other state agencies, and that are used to promote and maintain
3 public health are exempt from the statewide personal property
4 accounting system administered by the comptroller of public
5 accounts described in Subchapter L, Chapter 403, Government Code.
6 The qualified entities shall maintain complete equipment and supply
7 records. The department may request the return of any usable
8 equipment or supplies purchased with funds provided by the
9 department on the termination of the program, contract, or grant.

10 SECTION 5.06. Chapter 403, Government Code, is amended by
11 adding Subchapter L to read as follows:

12 SUBCHAPTER L. PROPERTY ACCOUNTING

13 Sec. 403.271. PROPERTY ACCOUNTING SYSTEM. (a) This
14 subchapter applies to all personal property belonging to the state.

15 (b) The comptroller shall administer the property accounting
16 system and maintain centralized records based on information
17 supplied by state agencies and the uniform statewide accounting
18 system. The comptroller shall adopt necessary rules for the
19 implementation of the property accounting system, including setting
20 the dollar value amount for capital assets and authorizing
21 exemptions from reporting.

22 (c) The property accounting system shall constitute, to the
23 extent possible, the fixed asset component of the uniform statewide
24 accounting system.

25 (d) The comptroller may authorize a state agency to keep
26 property accounting records at the agency's principal office if the
27 agency maintains complete, accurate, and detailed records. When

1 the comptroller makes such a finding, the comptroller shall keep
2 summary records of the property held by that agency. The agency
3 shall maintain detailed records in the manner prescribed by the
4 comptroller and shall furnish reports at the time and in the form
5 directed by the comptroller.

6 (e) A state agency shall mark and identify state property in
7 its possession. The agency shall follow the rules issued by the
8 comptroller in marking state property.

9 Sec. 403.272. RESPONSIBILITY FOR PROPERTY ACCOUNTING. (a)
10 A state agency must comply with this subchapter and maintain the
11 property records required.

12 (b) All personal property owned by the state shall be
13 accounted for by the agency that possesses the property. The
14 comptroller shall define personal property by rule for the purposes
15 of this subchapter. In adopting rules, the comptroller shall
16 consider the value of the property, its expected useful life, and
17 the cost of recordkeeping. The comptroller shall consult with the
18 state auditor in drafting rules. The state auditor shall cooperate
19 with the comptroller by giving technical assistance and advice.

20 Sec. 403.273. PROPERTY MANAGER; PROPERTY INVENTORY. (a)
21 The head of each state agency is responsible for the custody and
22 care of state property in the agency's possession.

23 (b) The head of each state agency shall designate a property
24 manager and inform the comptroller of the designation. Subject to
25 comptroller approval, more than one property manager may be
26 appointed by the agency head.

27 (c) The property manager shall maintain the records required

1 and be the custodian of all property possessed by the agency.

2 (d) State property may be used only for state purposes.

3 (e) When an agency's property is entrusted to a person other
4 than the property manager, the property manager shall require a
5 written receipt from the person receiving custody of the property.
6 When the property of one agency is lent to another agency, the
7 lending must be authorized in writing by the head of the agency
8 that is lending the property. A written receipt must be executed
9 by the head of the agency that is receiving the property.

10 (f) On the date prescribed by the comptroller, a state
11 agency shall make a complete physical inventory of all property in
12 its possession. The inventory must be completed once each year.

13 (g) Within 45 days after the inventory date prescribed by
14 the comptroller, the head of each state agency shall forward to the
15 comptroller a signed statement describing the method used to verify
16 the inventory and a copy of the inventory.

17 (h) The property records prepared by each state agency must
18 accurately reflect the property currently possessed by the agency.
19 The agency must use the methods prescribed by the comptroller to
20 delete property from the agency's property records. Property that
21 has become surplus or obsolete and no longer serviceable may be
22 deleted from the agency's records only upon authorization by the
23 comptroller. Property that is missing or that is disposed of
24 directly by the agency shall be deleted from the comptroller's
25 records on approval by the state auditor.

26 Sec. 403.274. CHANGE OF AGENCY HEAD OR PROPERTY MANAGER.

27 When there is a new head or property manager of an agency, the new

1 head or property manager of the agency shall execute a receipt for
2 all agency property accounted for to the outgoing agency head or
3 property manager. A copy of the receipt shall be delivered to the
4 comptroller, the state auditor, and the outgoing agency head or
5 property manager.

6 Sec. 403.275. LIABILITY FOR PROPERTY LOSS. The liability
7 prescribed by this section may attach on a joint and several basis
8 to more than one person in a particular instance. A person is
9 pecuniarily liable for the loss sustained by the state if:

10 (1) agency property disappears as a result of the
11 failure of the head of an agency, property manager, or agency
12 employee entrusted with the property to exercise reasonable care
13 for its safekeeping;

14 (2) agency property deteriorates as a result of the
15 failure of the head of an agency, property manager, or agency
16 employee entrusted with the property to exercise reasonable care to
17 maintain and service the property; or

18 (3) agency property is damaged or destroyed as a
19 result of an intentional wrongful act or of a negligent act of any
20 state official or employee.

21 Sec. 403.276. REPORTING TO STATE AUDITOR AND ATTORNEY
22 GENERAL. (a) If a head of an agency has reasonable cause to
23 believe that any state property in the agency's possession has been
24 lost, destroyed, or damaged through the negligence or fault of any
25 state official or employee, the agency head responsible shall
26 immediately report the loss, destruction, or damage to the state
27 auditor and to the attorney general.

1 (b) The attorney general shall investigate a report of loss,
2 destruction, or damage to state property.

3 (c) If the investigation discloses that a property loss has
4 been sustained by the state through the fault of a state official
5 or employee, the attorney general shall make written demand on the
6 state official or employee for reimbursement to the state for the
7 loss sustained.

8 (d) If the demand made by the attorney general for
9 reimbursement for property loss, destruction, or damage is refused
10 or disregarded by the state official or employee on whom such
11 demand is made, the attorney general may take legal action to
12 recover the value of the state property as the attorney general
13 deems necessary.

14 (e) Venue for all suits instituted under this section
15 against a state official or employee is in a court of appropriate
16 jurisdiction of Travis County.

17 Sec. 403.277. FAILURE TO KEEP RECORDS. If a state agency
18 fails to keep the records or fails to take the annual physical
19 inventory required by this subchapter, the comptroller may refuse
20 to draw warrants or initiate electronic funds transfers on behalf
21 of the agency.

22 Sec. 403.278. TRANSFER OF PERSONAL PROPERTY. (a) A state
23 agency may transfer any personal property of the state in its
24 possession to another state agency with or without reimbursement
25 between the agencies.

26 (b) When personal property in the possession of one state
27 agency is transferred to the possession of another state agency,

1 the transfers must be reported immediately to the comptroller by
2 the transferor and the transferee on the forms prescribed.

3 SECTION 5.07. Section 481.027, Government Code, is amended
4 by amending Subsections (a) and (b) and adding Subsections (e) and
5 (f) to read as follows:

6 (a) The department shall maintain and operate offices in
7 foreign countries for the purposes of promoting investment that
8 generates jobs in Texas, exporting of Texas products, tourism, and
9 international relations for Texas. The offices shall be named "The
10 State of Texas" offices. To the extent permitted by law, other
11 state agencies that conduct business in foreign countries may place
12 staff in the offices established by the department and share the
13 overhead and operating expenses of the offices. Other state
14 agencies and the department may enter interagency contracts for
15 this purpose. Chapter 771 does not apply to those contracts. Any
16 purchase for local procurement or contract in excess of \$5,000
17 shall be approved by the executive director prior to its execution.

18 (b) The offices shall be accessible to Texas-based
19 institutions of higher education and their nonprofit affiliates for
20 the purposes of fostering Texas science, technology, and research
21 development, international trade and investment, and cultural
22 exchange. The department and the institutions may enter contracts
23 for this purpose. Chapter 771 does not apply to those contracts.

24 (e) Articles 8 and 9, State Purchasing and General Services
25 Act (Article 601b, Vernon's Texas Civil Statutes), apply to the
26 operation and maintenance of the offices. No other provisions of
27 that Act apply to the operation and maintenance of the offices, or

1 no transactions of the department that are authorized by this
2 section.

3 (f) The General Services Department may, at the request of a
4 state agency, provide to the agency services exempted from the
5 application of the State Purchasing and General Services Act
6 (Article 601b, Vernon's Texas Civil Statutes) under Subsection (e).
7 Chapter 771 does not apply to services provided under this
8 subsection. The General Services Department shall establish a
9 system of charges and billings that ensures recovery of the cost of
10 providing the services and shall submit a purchase voucher or a
11 journal voucher, after the close of each month, to the agency for
12 which services were performed.

13 SECTION 5.08. Section 497.026(b), Government Code, as
14 renumbered and amended by Chapter 16, Acts of the 72nd Legislature,
15 Regular Session, 1991, is amended to read as follows:

16 (b) If the [~~State---Purchasing---and~~] General Services
17 Department [~~Commission~~] determines that an article or product
18 produced by the institutional division under this subchapter does
19 not meet the requirements of an agency of the state or a political
20 subdivision, or the institutional division of the Texas Department
21 of Criminal Justice determines that the division is unable to fill
22 a requisition for an article or product, the agency or subdivision
23 may purchase the article or product from another source.

24 SECTION 5.09. Section 497.027, Government Code, as
25 renumbered by Chapter 16, Acts of the 72nd Legislature, Regular
26 Session, 1991, is amended by amending Subsection (a) and by adding
27 Subsection (c) to read as follows:

1 (a) An agency of the state that purchases articles and
2 products under this subchapter must requisition the purchase
3 through the [~~State--Purchasing--and~~] General Services Department
4 [~~Commission~~] except for purchases of items or services not included
5 in an established contract. The purchase of items not included in
6 an established contract and that do not exceed the dollar limits
7 established under Section 3.08(a), State Purchasing and General
8 Services Act (Article 601b, Vernon's Texas Civil Statutes), may be
9 acquired directly from the institutional division on the agency's
10 obtaining an informal or a formal quotation for the item and
11 issuing a proper purchase order to the institutional division.

12 (c) If an agency or political subdivision purchasing goods
13 under this subchapter desires to purchase goods or articles from
14 the institutional division, it may do so without complying with any
15 other state law otherwise requiring the agency or political
16 subdivision to request competitive bids for the article or product.
17 A political subdivision is not required to purchase goods or
18 articles from the institutional division if the political
19 subdivision determines that the goods or articles can be purchased
20 elsewhere at a lower price. An agency is not required to purchase
21 goods or articles from the institutional division if the agency
22 determines, and the General Services Department certifies, that the
23 goods or articles can be purchased elsewhere at a lower price.

24 SECTION 5.10. Article 4348e, Revised Statutes, is amended by
25 adding Section 5 to read as follows:

26 Sec. 5. COORDINATION OF DUTIES. The General Services
27 Department, the Department of Information Resources, and the

1 comptroller shall coordinate their duties to ensure the effective
2 and efficient implementation of the uniform statewide accounting
3 system.

4 SECTION 5.11. Section 3, Information Resources Management
5 Act (Article 4413(32j), Revised Statutes), is amended by adding
6 Subdivision (10) to read as follows:

7 (10) "Telecommunications services" means services
8 related to the transmission, emission, or reception of signs,
9 signals, writings, images, and sounds of intelligence of any nature
10 by wire, radio, optical, or other electromagnetic systems.

11 SECTION 5.111. Section 3, Information Resources Management
12 Act (Article 4413(32j), Revised Statutes), is amended by adding
13 Subdivision (11) to read as follows:

14 (11) "Geographic information systems" includes
15 decision support systems involving the integration of spatially
16 referenced data and the performance of analytic functions.

17 SECTION 5.12. Section 6, Information Resources Management
18 Act (Article 4413(32j), Revised Statutes), is amended to read as
19 follows:

20 Sec. 6. GOVERNING BOARD. (a) The department is governed by
21 a board composed of six [~~nine~~] members appointed by the governor
22 with the advice and consent of the senate. Two [~~Three~~] members
23 must be appointed from a list of persons submitted to the governor
24 by the speaker of the house of representatives [~~7-and-at-least-one~~
25 ~~of-the-persons-appointed-from-that-list-must-be-a-member-of-the~~
26 ~~house-of-representatives-who-serves-on-the-board-ex-officio-as-a~~
27 ~~voting-member~~]. Two [~~Three~~] members must be appointed from a list

1 of persons submitted to the governor by the lieutenant governor[7
2 and-at-least-one-of-the-persons-appointed-from-that-list-must-be--a
3 member-of-the-senate-who-serves-on-the-board-ex-officio-as-a-voting
4 member.---One-of-the-nine-members-must-be-employed-by-an-institution
5 of--higher--education-as-defined-by-Section-61.0037-Education-Code.
6 In-addition--to--the--members--of--the--legislature--that--must--be
7 appointed--from--the-lists-submitted-by-the-lieutenant-governor-and
8 the-speaker-of-the--house--of--representatives,--the--governor--may
9 appoint--other--members-of-the-legislature-to-serve-on-the-board-ex
10 officio-as-voting-members].

11 (b) Members of the board serve for staggered six-year terms
12 with two [three] members' terms expiring February 1 of each
13 odd-numbered year.

14 (c) The governor shall designate the chairman of the board
15 from among the members. The chairman serves as chairman at the
16 will of the governor. The chairman may vote on all matters before
17 the board.

18 (d) An appointment to fill a vacancy of a board member shall
19 be made under the same procedure that applied to the original
20 appointment for that position. If the chair is vacant, the
21 executive director shall perform all nonvoting duties of the
22 chairman until the governor designates a new chairman. [If--it--is
23 held--as--a--final--result-of-an-action-first-brought-in-a-court-of
24 competent-jurisdiction-that-an-ex-officio-or-other--member--of--the
25 board--may-not-serve-on-the-board-under-the-Texas-Constitution,--the
26 appropriate-person-shall-promptly-submit-a-list-to-the-governor-for
27 the-appointment-of-a-replacement-who-may-serve.]

1 (e) A member of the board may not receive compensation for
2 services as a board member. A member is entitled to reimbursement
3 for actual and necessary expenses reasonably incurred in connection
4 with the performance of those services, subject to any applicable
5 limitation on reimbursement provided by the General Appropriations
6 Act. [~~An-ex-officio-member-is-entitled-to-reimbursement-for--those~~
7 ~~expenses-under-the-rules-of-the-member's-office.~~]

8 (f) A member of the board is not liable to civil action for
9 any act performed in good faith in the performance of duties as a
10 board member.

11 (g) [~~Five--or-more-members-of-the-board-constitute-a-quorum.~~
12 ~~A-quorum-must-be-present-to-conduct-business.--An-affirmative--vote~~
13 ~~of--a-majority-of-the-members-of-the-board-present-is-necessary-for~~
14 ~~an-action-of-the-board.~~

15 [~~(h)~~] The board shall meet at least once in each quarter of
16 the state fiscal year and may meet at other times at the call of
17 the chairman or as provided by department rule.

18 (h) [~~(i)~~] The board is subject to the open meetings law,
19 Chapter 271, Acts of the 60th Legislature, Regular Session, 1967
20 (Article 6252-17, Vernon's Texas Civil Statutes).

21 SECTION 5.13. Section 7(a), Information Resources Management
22 Act (Article 4413(32j), Revised Statutes), is amended to read as
23 follows:

24 (a) It is a ground for removal from the board if a member:
25 (1) does not have at the time of appointment the
26 [~~qualifications-or~~] status required for appointment to the board;
27 (2) [~~does-not-maintain-during-service-on-the-board-the~~

1 ~~qualifications-or-status-required-for-initial--appointment--to--the~~
2 ~~board;~~

3 [3] violates a prohibition established by Section 8
4 of this article;

5 (3) [4] cannot discharge the member's duties for a
6 substantial part of the term for which the member is appointed
7 because of illness or disability; or

8 (4) [5] is absent from more than half of the
9 regularly scheduled board meetings that the member is eligible to
10 attend during a state fiscal year unless the absence is excused by
11 majority vote of the board.

12 SECTION 5.14. Section 8(a), Information Resources Management
13 Act (Article 4413(32j), Revised Statutes), is amended to read as
14 follows:

15 (a) A member of the board or an employee of the department
16 may not:

17 (1) be a person required to register as a lobbyist
18 under Chapter 305, Government Code, because of the person's
19 activities for compensation on behalf of a business entity that
20 has, or on behalf of a trade association of business entities that
21 have, a substantial interest in the information resources
22 technologies industry;

23 (2) be an officer, employee, or paid consultant of a
24 business entity that has, or of a trade association of business
25 entities that have, a substantial interest in the information
26 resources technologies industry and that may contract with state
27 government;

1 (3) directly own, control, or have~~[7--directly--or~~
2 ~~indirectly7]~~ more than a 10 percent interest in a business entity
3 that has a substantial interest in the information resources
4 technologies industry and that may contract with state government;

5 (4) have a direct financial interest ~~[receive-more~~
6 ~~than-25-percent-of-the-person's-income-from-a-business-entity--that~~
7 ~~has---a---substantial---interest---in---the--information--resources~~
8 ~~technologies-industry-and-that-may-contract-with-state-government7~~

9 ~~[75]--be-interested]~~ in ~~[or-connected-with]~~ a contract
10 or bid for furnishing a state agency with information resources
11 technologies;

12 (5) ~~[76]~~ be paid ~~[employed]~~ by a state agency as a
13 consultant on information resources technologies; or

14 (6) ~~[77]~~ accept or solicit any gift or service that
15 would reasonably tend to influence the person in the discharge of
16 official duties or that the person knows or should know is being
17 offered with the intent to influence official conduct ~~[receive~~
18 ~~money--or--another--thing--of--value--from--an-individual7-firm7-or~~
19 ~~corporation--to--whom--a--contract--may--be--awarded7--directly--or~~
20 ~~indirectly7-by-rebate7-gift7-or-otherwise].~~

21 SECTION 5.15. Section 9, Information Resources Management
22 Act (Article 4413(32j), Revised Statutes), is amended by amending
23 Subsection (i) and adding Subsections (n)-(u) to read as follows:

24 (i) The department shall establish an information resources
25 technology evaluation center in accordance with Section 21A of this
26 article for use by the department and other state agencies.
27 Notwithstanding Section 21A of this article, contracts and grants

1 awarded by the department under Section 21A of this article are
2 subject to Articles 601i and 601j, Revised Statutes, and to the
3 State Purchasing and General Services Act (Article 601b, Vernon's
4 Texas Civil Statutes), and in the event of a conflict between
5 Section 21A of this article and this subsection, this subsection
6 controls. The department may accept the loan of information
7 resources technologies and may use loaned technologies for not more
8 than one year after the date of acceptance for the purpose of
9 evaluation and presentations.

10 (n) The department shall focus its oversight efforts on
11 matters involving relatively large amounts of money.

12 (o) Internal development costs shall be considered in all
13 plans required by the department under this article.

14 (p) The department may issue requests for information and
15 requests for proposals relating to all existing or proposed
16 statewide or interagency projects, statewide or interagency use of
17 a common application, or other statewide or interagency use of
18 information resources technologies. When the department issues a
19 request for information or request for proposals to entities
20 outside of government, the department must comply with applicable
21 procedures that govern such a request under Article 3, State
22 Purchasing and General Services Act (Article 601b, Vernon's Texas
23 Civil Statutes), Article 601i, Revised Statutes, or Article 601j,
24 Revised Statutes, as appropriate.

25 (q) The department shall certify the cost-effectiveness and
26 technical validity of all statewide or interagency implementations
27 of information resources technologies.

1 (r) The department shall develop disaster recovery
2 guidelines and policies for information resources and information
3 resources technologies under which state agencies must develop
4 disaster recovery plans and procedures. The department shall
5 develop a statewide disaster recovery plan for consideration by the
6 division of emergency management in the office of the governor.
7 The division may include all or part of the plan in the state
8 emergency management plan. The department may provide training and
9 technical assistance to state agency personnel related to
10 developing, testing, and revising disaster recovery procedures for
11 information resources and information resources technologies.

12 (s) The department may accept grants to accomplish its
13 purposes under this article.

14 (t) The department may obtain information resources
15 technologies or the right to use information resources technologies
16 on behalf of all or part of state government under a site license
17 and may make the technologies available for use by agencies of
18 state government under terms and conditions specified by the
19 department.

20 (u) Subsections (n)-(t) of this section do not apply to
21 institutions of higher education.

22 SECTION 5.16. The Information Resources Management Act
23 (Article 4413(32j)), Revised Statutes) is amended by adding Section
24 9A to read as follows:

25 Sec. 9A. TELECOMMUNICATIONS PLANNING AND POLICY. (a) The
26 department shall establish plans and policies for a system of
27 telecommunications services to be managed and operated by the State

1 Purchasing and General Services Commission.

2 (b) The department, comptroller, and State Purchasing and
3 General Services Commission shall develop a statewide
4 telecommunications operating plan for all agencies that implements
5 a statewide network and includes technical specifications that are
6 binding on the managing and operating agency.

7 (c) On matters relating to statewide telecommunications
8 issues the department shall:

9 (1) coordinate its duties in this section with the
10 comptroller towards the goal of a single centralized
11 telecommunications network; and

12 (2) coordinate with other agencies as appropriate.

13 (d) The department shall promulgate and disseminate to all
14 agencies appropriate policies and standards that govern the
15 cost-effective and efficient management, operation, and utilization
16 of state telecommunications services.

17 (e) Each agency shall comply with the rules, policies,
18 standards, and guidelines promulgated under this section.

19 SECTION 5.17. The Information Resources Management Act
20 (Article 4413(32j), Revised Statutes) is amended by adding Section
21 9B to read as follows:

22 Sec. 9B. SHARED USE OF RESOURCES. (a) A state agency shall
23 respond to the department's requests for information and requests
24 for proposals relating to an existing or proposed interagency
25 project, interagency use of a common application, or other
26 interagency use of information resources technologies.

27 (b) The department may determine that a state agency should

1 make available to one or more other state agencies for specified
2 uses information resources technologies that are in the possession
3 of the agency. The department shall inform the state agencies
4 concerned of its determination.

5 (c) The department may determine that a state agency should
6 modify its information resources practices in a way that allows the
7 agency to accomplish a specified application, project, or other
8 function performed by the agency by using information resources
9 technologies in the possession of another agency. The department
10 shall inform the state agency concerned of its determination.

11 (d) If a state agency does not act in accordance with a
12 determination of the department under Subsection (b) or (c) of this
13 section, the department may inform the governor and the Legislative
14 Budget Board of that fact.

15 (e) The governor may direct a state agency to act in
16 accordance with all or part of a determination of the department
17 under Subsection (b) or (c) of this section. The governor may
18 require a state agency to provide more information relating to the
19 subject matter of the department's determination or the
20 department's request for information or request for proposals. The
21 state agency shall act in accordance with the governor's direction
22 on the matter.

23 SECTION 5.18. The Information Resources Management Act
24 (Article 4413(32j), Revised Statutes) is amended by adding Section
25 9C to read as follows:

26 Sec. 9C. INFORMATION ACCESS AND INFORMATION SECURITY.

27 (a) The department may adopt rules that govern state agency

1 procedures related to the confidentiality, security, and privacy of
2 information contained in or accessible by state agency information
3 resources technologies. Rules adopted under this section must
4 include provisions to prevent the loss, unauthorized modification,
5 and unauthorized disclosure of the information.

6 (b) The department may provide training and technical
7 assistance in information access policy and information security to
8 state agency personnel who are responsible for working with
9 information contained in or accessible by state agency information
10 resources technologies.

11 (c) A state agency may take appropriate measures related to
12 information access and information security that are in addition to
13 the measures taken by the agency as prescribed by department rule.

14 SECTION 5.181. The Information Resources Management Act
15 (Article 4413(32j), Revised Statutes) is amended by adding Section
16 9D to read as follows:

17 Sec. 9D. GEOGRAPHIC INFORMATION SYSTEMS. (a) The
18 department shall establish a central site to facilitate and
19 coordinate state agency use of geographic information systems to
20 encourage sharing by state agencies of geographic information data.

21 (b) The department shall:

22 (1) adopt geographic information systems standards
23 that apply to state agency geographic information systems and other
24 state agency information resources technologies;

25 (2) ensure compatibility of systems, technologies, and
26 data;

27 (3) promote the development and use of electronic

1 networks to integrate and deliver datasets to agencies; and

2 (4) facilitate joint purchases of geographic
3 information systems, applications, and data.

4 (c) A state agency that produces geographic information
5 system data files shall make these data files available in
6 electronic and digital form for use by the department and by other
7 state agencies with geographic information system capabilities.

8 (d) The department shall adopt rules to implement its
9 responsibilities under this section.

10 SECTION 5.19. Section 11, Information Resources Management
11 Act (Article 4413(32j), Revised Statutes), is amended to read as
12 follows:

13 Sec. 11. EXECUTIVE DIRECTOR; STAFF. (a) The governor with
14 the advice and consent of the senate shall appoint the executive
15 director of the department. The executive director serves for a
16 two-year term expiring February 1 of each odd-numbered year [board
17 ~~shall-employ-an-executive-director-and-other-employees-necessary-to~~
18 ~~carry-out-its-duties].~~

19 (b) The executive director shall manage the affairs of the
20 department. The executive director shall establish divisions and
21 positions within the department that the executive director
22 considers necessary to perform the department's duties.

23 (c) The executive director shall provide administrative
24 support to the members of the board that is necessary for the
25 performance of the functions of the members.

26 (d) The board shall establish policy, adopt rules that the
27 department may adopt under law, evaluate the implementation of new

1 legislation that affects the department's duties, review and
2 comment on the department's budget, prepare an annual report of the
3 department's activities, conduct investigations and studies, and
4 develop long-range plans for the future goals and needs of the
5 department. The board may not be involved in the daily operation
6 of the department. The board may delegate to the executive
7 director the duties of the department under this article and other
8 law that are not covered under the description of the board's
9 duties under this subsection.

10 (e) The executive director shall employ personnel necessary
11 for the performance of department functions. In addition to other
12 personnel, the executive director shall employ a human rights
13 officer and an internal auditor. The internal auditor reports
14 directly to the governor.

15 (f) The board and executive director shall jointly develop
16 and implement policies that clearly define the respective
17 responsibilities of the members of the board, the executive
18 director, and the staff of the department in accordance with this
19 article.

20 (g) The executive director shall provide to the department's
21 employees, as often as necessary, information regarding their
22 qualifications for employment and their responsibilities under
23 applicable laws relating to standards of conduct for state
24 employees.

25 (h) [(b)] The department shall develop a system of annual
26 performance evaluations. All merit pay for department employees
27 must be based on the system established under this subsection.

1 (i) [~~te~~] The department shall develop an intraagency career
2 ladder program. The program shall require intraagency postings of
3 all nonentry level positions concurrently with any public posting.

4 (j) [~~td~~] The department shall prepare and maintain a
5 written policy statement to assure implementation of a program of
6 equal employment opportunity under which all personnel transactions
7 are made without regard to race, color, handicap, sex, religion,
8 age, or national origin. The policy statement must include
9 personnel policies, including policies relating to recruitment,
10 evaluation, selection, appointment, training, and promotion of
11 personnel.

12 SECTION 5.20. Section 12(a), Information Resources
13 Management Act (Article 4413(32j), Revised Statutes), is amended to
14 read as follows:

15 (a) The executive director shall prepare a state strategic
16 plan for information resources management for the board's review
17 and approval. The plan must:

18 (1) provide a strategic direction for information
19 resources management in state government for the five fiscal years
20 following adoption of the plan, and provide guidance to state
21 agencies in the development of the agency strategic plans;

22 (2) establish goals and objectives relating to
23 information resources management;

24 (3) provide long-range policy guidelines for
25 information resources in state government, including the
26 implementation of national and international standards for
27 information resources technologies;

1 (4) identify major issues relating to improved
2 information resources management, including the identification of
3 needed procurement policy initiatives to encourage competition
4 between providers of information resources technologies and a
5 consideration of the comparative costs and advantages to the state
6 when state agency needs are met within the agency, on an
7 interagency basis, and through a contract with the private sector;
8 [and]

9 (5) identify functions that may be accomplished more
10 cost-effectively through contracts with the private sector; and

11 (6) identify priorities for the implementation of
12 information resources technologies based on the relative economic
13 and social impact on the state.

14 SECTION 5.21. Sections 14(a) and (c), Information Resources
15 Management Act (Article 4413(32j), Revised Statutes), are amended
16 to read as follows:

17 (a) Each state agency shall prepare and submit to its
18 governing body for approval an agency strategic plan for
19 information resources management. After the governing body has
20 approved the plan, the [The] plan shall be signed by the governing
21 officer or chairman of the governing body of the agency if the
22 agency is governed by one or more fully paid full-time state
23 officials, and otherwise by the executive director of the agency.
24 The agency strategic plan shall be prepared in a format prescribed
25 by the department and shall be submitted to the department for
26 review and approval not later than January 1 of each even-numbered
27 [odd-numbered] year.

1 (c) Each agency strategic plan must be consistent with the
2 state strategic plan and include:

3 (1) a statement of the agency's goals, objectives, and
4 current programs as found in the agency's legislative
5 appropriations request;

6 (2) a description of the agency's major data bases and
7 their applications;

8 (3) a description of the agency's current information
9 resources management organizations, policies, and practices;

10 (4) a description of interagency computer networks in
11 which the agency participates;

12 (5) an assessment of the extent to which the agency
13 could achieve its objectives through a contract with another agency
14 or with the private sector;

15 (6) [†5†] a statement of the strategic objectives of
16 the agency relating to information resources management for the
17 next five fiscal years, beginning with the fiscal year during which
18 the plan is submitted, with a description of how those objectives
19 help achieve the agency's programs and goals, and a description of
20 how those objectives support and further the goals and policies of
21 the state strategic plan; and

22 (7) [†6†] other planning components that the
23 department may prescribe.

24 SECTION 5.22. Section 15, Information Resources Management
25 Act (Article 4413(32j), Revised Statutes), is amended to read as
26 follows:

27 Sec. 15. INITIAL OPERATING PLANS. (a) Once each biennium,

each state agency's information resources manager shall prepare an initial operating plan. The plan must include the information required under Subsection (b) of this section with the specificity required by the department [An-agency-is-not-required-to-identify specific-acquisitions-or-the-method-of-acquisition--in--the--plan]. The plan must be [approved-by-the-governing-body-of-the-agency-and] submitted to the department for approval not later than the date that the agency is required to submit its first legislative appropriations request. An amended plan consistent with the changes in the agency's legislative appropriations request shall be submitted for approval to the department on the date that the agency submits an amended legislative appropriations request.

(b) A state agency's initial operating plan must, for each request under each Legislative Budget Board assumption:

(1) state how the agency's requested appropriations for the management, operation, and procurement of information resources would be spent;

(2) contain a summary of the agency's needs for information resources technologies and the estimated cost of meeting those needs during the next biennium within the agency, on an interagency basis, and through a contract with the private sector;

(3) list the existing and proposed projects, including internal development projects, for the agency during the next biennium, including:

(A) the anticipated measurable benefits of those projects and the measurement standards used to determine those

1 benefits;

2 (B) the major resources required to conduct the
3 projects;

4 (C) the agency's estimated total cost of each
5 project by legislative program as found in the agency's legislative
6 appropriations request;

7 (D) the cost and implementation schedule for
8 each stage of each project;

9 (E) the number, type, approximate cost,
10 schedule, and, if known, the planned method of acquisition for all
11 procurements associated with each project that are subject to
12 review under department rules; and

13 (F) the estimated internal development costs for
14 each project, including an allocation of costs for the use of fixed
15 assets and an allocation for administrative costs;

16 (4) provide an estimate, given the estimated work
17 load, of the percentage of existing and proposed information
18 resources technologies that will be required after all existing and
19 proposed projects are implemented; and

20 (5) provide any other information the department
21 considers necessary.

22 SECTION 5.23. Section 16, Information Resources Management
23 Act (Article 4413(32j), Revised Statutes), is amended by amending
24 Subsections (b) and (d) and adding Subsections (e) and (f) to read
25 as follows:

26 (b) At a minimum, the plan must include, in addition to the
27 information required in the initial operating plan, the following:

1 (1) the amount of money related to information
2 resources actually appropriated to the agency for the biennium
3 beginning September 1; ~~[and]~~

4 (2) an identification of changes, if any, in the
5 agency's priorities for projects and associated procurements as set
6 forth in the initial operating plan;

7 (3) an update of the estimated costs required under
8 Section 15(b)(2) of this article; and

9 (4) any additional information required for projects
10 under Section 18 of this article.

11 (d) A state agency shall amend its final operating plan:

12 (1) when necessary to reflect changes in the plan
13 during a biennium;

14 (2) [~~---The plan shall also be amended~~] if necessary
15 to show the impact of a consulting services contract or report that
16 may affect software development, hardware configuration, or changes
17 in the agency's management of information resources;

18 (3) at the direction of the department, when a
19 significant phase of the systems development life cycle of a
20 project is completed; and

21 (4) at the direction of the department, before a
22 significant phase of the systems development life cycle of a
23 project is commenced.

24 (e) An amendment required under Subsection (d)(3) or (4) of
25 this section must include the cost of accomplishing the application
26 or proposed project under the method of implementation proposed by
27 the agency.

1 (f) The substance of any amendment submitted to the plan
2 must also be included in an appropriate approved agency strategic
3 plan or approved agency strategic plan amendment.

4 SECTION 5.24. Sections 17(b), (c), (d), (e), (g), and (i),
5 Information Resources Management Act (Article 4413(32j), Revised
6 Statutes), are amended to read as follows:

7 (b) The department shall notify a state agency in writing of
8 the department's approval or disapproval of an initial operating
9 plan. The department may approve or conditionally approve all or
10 part of a plan or disapprove all or part of a plan. The
11 notification shall be sent not later than 120 days after the date
12 the department receives the plan.

13 (c) The department shall notify a state agency in writing of
14 the department's approval or disapproval of a final operating plan.
15 The department may approve or conditionally approve all or part of
16 a plan or disapprove all or part of a plan. The notification shall
17 be sent not later than 30 days after the date the department
18 receives the plan. If the department's determination is due after
19 September 1 of an odd-numbered year, a state agency may operate as
20 if the plan had been approved until the department actually makes
21 its determination.

22 (d) If the department disapproves all or part of a state
23 agency's initial operating plan or final operating plan, the
24 department shall provide to the agency in writing the reasons for
25 the disapproval. If the agency cannot resolve the problems that
26 caused disapproval within 30 days after the date the notice of
27 disapproval is received, the agency shall notify the department in

1 writing of the reasons why the problems cannot be resolved. The
2 notification shall be sent to the department not later than 30 days
3 after the date that the agency receives notice of the department's
4 disapproval.

5 (e) Before a state agency may amend its final operating
6 plan, the agency must submit the proposed amendment to the
7 department for approval. All amendments affecting operations
8 during a fiscal year must be submitted not later than June 1 of
9 that fiscal year. The department may approve or conditionally
10 approve all or part of a proposed plan amendment or disapprove all
11 or part of a proposed plan amendment. The department shall notify
12 the agency of the department's approval or disapproval not later
13 than the 30th day after the date the proposed amendment is
14 received. If the department disapproves all or part of a proposed
15 amendment, the department shall state the reasons for the
16 disapproval in writing to the agency's information resources
17 manager. The department shall adopt rules for the procedures a
18 state agency must follow when submitting a revision of proposed
19 amendments to the department after the department has disapproved
20 the amendments.

21 (g) A state agency that disagrees with the department's
22 disapproval of all or part of an initial operating plan, final
23 operating plan, or an amendment to either of those plans may submit
24 a written request to the department for special review. On receipt
25 of a request, the executive director shall inform the board. The
26 board shall consider the merits of the agency's position and make
27 its decision on the matter at the next regularly scheduled board

1 meeting. The state agency may appear and present its position at
2 that meeting. The decision of the board is final. The board shall
3 adopt rules for the fair and efficient administration of this
4 subsection.

5 (i) As a consequence of evaluating an initial operating
6 plan, ~~[or]~~ a final operating plan, or an amendment to either of
7 those plans, the department may require a state agency to submit or
8 obtain comprehensive ~~[certain]~~ information and documentation
9 required by the department in the format prescribed by the
10 department ~~[as-part--of--its--procurement--process:---This--may--be~~
11 ~~required-when:~~

12 ~~[(1)--an---agency---is---planning---a---noncompetitive~~
13 ~~procurement;~~

14 ~~[(2)--an-agency-is-planning-a-system-conversion;-or~~

15 ~~[(3)--the-department-determines--that--the--information~~
16 ~~would-be-necessary-or-appropriate].~~

17 SECTION 5.25. The Information Resources Management Act
18 (Article 4413(32j), Revised Statutes) is amended by adding Section
19 17A to read as follows:

20 Sec. 17A. COMPARATIVE COST REVIEW FOR INTERNALLY DEVELOPED
21 APPLICATION OR PROJECT. (a) The department may conduct a
22 comparative cost review for an application or project that a state
23 agency has developed or implemented or proposes to develop or
24 implement internally. In conducting the review, the department
25 may:

26 (1) base its estimate of the cost to the state of the
27 agency's future internal development or implementation of the

1 application or project on information it receives under Sections
2 14-17 of this article;

3 (2) seek and obtain information from other state
4 agencies and from nongovernmental entities on the probable cost to
5 the state of the future development or implementation of the
6 application or project through a contract with a state agency or
7 with a nongovernmental entity; and

8 (3) require further information from the agency on the
9 cost to the state of future internal development or implementation
10 by the agency of the application or project.

11 (b) If the department determines that the probable total
12 future cost to the state of accomplishing the application or
13 project through a contract with another state agency or with a
14 nongovernmental entity would be less than 90 percent of the total
15 probable future cost to the state of continued internal development
16 or implementation of the application or project by the agency, the
17 department may require the agency to issue a request for bids or a
18 request for proposals, as provided by law, for the accomplishment
19 of the application or project through a contract with another state
20 agency or a nongovernmental entity.

21 (c) If a bid or proposal is received under Subsection (b) of
22 this section that would allow the agency to accomplish the
23 application or project at an acceptable level of quality and for an
24 acceptable period for a total cost to the state of less than 90
25 percent of the total cost to the state of continued internal
26 development or implementation, as that cost is determined by the
27 department, a contract for the accomplishment of the application or

1 project shall be awarded to the bidder with the lowest and best
2 bid, or the offeror whose proposal is most advantageous to the
3 state as determined from competitive sealed proposals.

4 (d) Not later than January 31 of each year, the department
5 shall provide an annual report of the comparative cost reviews it
6 performed during the previous calendar year, including its findings
7 and recommendations, to the Legislative Budget Board.

8 SECTION 5.26. Section 18, Information Resources Management
9 Act (Article 4413(32j), Revised Statutes), as amended by Chapter
10 582, Acts of the 72nd Legislature, Regular Session, 1991, is
11 amended to read as follows:

12 Sec. 18. AUTHORIZATION FOR PROJECT DEVELOPMENT AND
13 IMPLEMENTATION [ACQUISITION--SPECIFICATIONS]. (a) A state agency
14 may not spend appropriated money after January 1, 1992 to take an
15 action related to project development or project implementation
16 [acquire-information-resources-technologies] unless the action is
17 consistent with an appropriate final operating plan or plan
18 amendment that has already received final approval from the
19 department or the agency first submits [the-specifications-for-the
20 proposed-acquisition] to the department a project update, in the
21 form of a final operating plan amendment, that includes the
22 proposed action, and the department approves the project update
23 plan amendment. The agency must submit specifications and
24 documentation to the department relating to a proposed project that
25 are sufficiently detailed and complete to allow the department to
26 perform a meaningful and thorough review. The department shall
27 adopt rules relating to the form and content of the specifications

1 and documentation that must be submitted to the department. [If
2 the-agency-determines-that-the-acquisition--may--be--obtained--from
3 only--one--source,--the--agency--shall--state--the-reasons-for-that
4 determination.] The department shall determine whether:

5 (1) the [specifications--of--the] proposed project
6 complies with statewide standards and policies contained in the
7 state strategic plan;

8 (2) the form and content of the specifications and
9 documentation submitted to the department substantially comply with
10 department rules;

11 (3) the proposed project is cost effective and
12 technically valid;

13 (4) there has been performed an adequate analysis of
14 alternatives to the proposed project or to the method of developing
15 or implementing the proposed project, including a comparative cost
16 analysis of the probable cost to the state of development or
17 implementation of the project through a contract with a state
18 agency or with a nongovernmental entity; and

19 (5) the proposed project is [acquisition---are]
20 consistent with the appropriate final operating plan and plan
21 amendments submitted by the agency and approved by the department.

22 (b) If the department finds that a proposed action related
23 to a project as [the--acquisition--of---information---resources
24 technologies] described by the project update plan amendment and
25 the supporting specifications and documentation does not meet the
26 criteria prescribed by Subsection (a) of this section [would-be
27 inconsistent-with-the-appropriate-plan-and--plan--amendments], the

1 department shall notify the state agency, the governor, and the
2 comptroller [~~for acquisitions made through the State Purchasing~~
3 ~~and General Services Commission, the commission~~] in writing of the
4 finding and of the specific reasons for the finding. A state
5 agency [~~The acquisition~~] may not then spend appropriated money to
6 take the action [~~be made~~] unless the department overturns its
7 finding.

8 (c) [~~If the department finds that the proposed acquisition~~
9 ~~is consistent with the appropriate plan and plan amendments, or if~~
10 ~~the department does not issue the notification of its finding of~~
11 ~~inconsistency on or before the 30th day after the date that the~~
12 ~~department receives the specifications for the proposed~~
13 ~~acquisition, the acquisition may be made.~~

14 [~~d~~] The department by rule may establish procedures to
15 exempt certain projects [procurements] from the requirements of
16 this section and to expedite the requirements of this section for
17 certain projects [procurements; ~~The exempted procurements shall~~
18 ~~include technologies that are acquired through contracts and grants~~
19 ~~by an institution of higher education as defined by Section 61-003,~~
20 ~~Education Code, for instruction or research purposes].~~

21 (d) [~~e~~] A state agency may take an action described in
22 this article without first complying with the procedures prescribed
23 by this article if the agency finds that a situation caused by
24 fire, natural disaster, or other actual emergency requires the
25 action to be taken. A report explaining the emergency action must
26 be filed with the department not later than the 30th day after the
27 date the action is taken.

1 (e) If a state agency determines that a project action will
2 include making an acquisition that may be obtained from only one
3 source, the agency shall state the reasons for that determination
4 to the department.

5 (f) The Texas National Research Laboratory Commission may
6 take action described in this article without first complying with
7 the procedures prescribed by this article if the agency determines
8 that an acquisition of information resource technologies
9 constitutes an eligible undertaking as defined by Section 465.021,
10 Government Code.

11 (g) This section does not apply to an institution of higher
12 education as defined by Section 61.003, Education Code.

13 SECTION 5.27. The Information Resources Management Act
14 (Article 4413(32j), Revised Statutes) is amended by adding Section
15 18A to read as follows:

16 Sec. 18A. PROCEDURE FOR CERTAIN CONTRACTS. (a) A state
17 agency may not enter into an interagency contract for the receipt
18 of information resources technologies, including a contract for
19 services and a contract under Section 21 of this article, unless
20 the agency complies with this section.

21 (b) A state agency that proposes to receive information
22 resources technologies under a contract with another state agency
23 must first give public notice of a request for proposals or a
24 request for bids.

25 (c) A state agency may not enter into an interagency
26 contract to receive information resources technologies if the
27 agency receives a bid or proposal under Subsection (b) of this

1 section under which the agency can receive the same or
2 substantially the same technologies from a private vendor for less
3 than 90 percent of the cost that would be incurred by the agency
4 under the interagency contract. If a bid or proposal is received
5 under Subsection (b) of this section that would allow the agency to
6 accomplish the application or project at an acceptable level of
7 quality and for an acceptable period for a total cost to the state
8 of less than 90 percent of the total cost to the state of the best
9 proposed interagency contract, as that cost is determined by the
10 department, a contract for the accomplishment of the application or
11 project shall be awarded to the bidder with the lowest and best
12 bid, or the offeror whose proposal is most advantageous to the
13 state as determined from competitive sealed proposals.

14 SECTION 5.28. Section 19, Information Resources Management
15 Act (Article 4413(32j), Revised Statutes), is amended to read as
16 follows:

17 Sec. 19. INFORMATION RESOURCES MANAGERS. (a) The person
18 required to sign an agency's strategic plan, or a senior staff
19 member designated by that person [~~person's designee~~], shall serve
20 as the agency's information resources manager. A member of the
21 board of the department may not also serve as the information
22 resources manager of a state agency.

23 (b) If the department agrees, [~~performs-substantially-all~~
24 ~~information-processing--for~~] a state [~~agency,--the~~] agency may
25 designate the department as the agency's information resources
26 manager. The department may by rule define the circumstances in
27 which it may serve as an agency's information resources manager.

1 (c) Each state agency shall cooperate as necessary with its
2 information resources manager to enable that person to perform the
3 duties required of the information resources manager by law.

4 (d) The department shall adopt rules [~~provide-guidelines-to~~
5 ~~state-agencies~~] regarding the initial and continuing education and
6 training requirements [~~needed~~] for information resources managers
7 [~~not-later-than-September-17-1990-to-be-effective-on-September--17~~
8 ~~1992~~]. The department may create a certification program for
9 information resources managers and require that information
10 resources managers be certified as prescribed by the department.

11 Any person who is appointed the information resources manager of a
12 state agency before September 1, 1992, is exempt from the
13 requirements of the department regarding initial education needed
14 for that position. The department may provide educational
15 materials and seminars for state agencies and information resources
16 managers.

17 (e) The information resources manager is responsible for the
18 preparation of the [~~operating~~] plans under Sections 14 [~~15~~]-17 of
19 this article, and the annual performance report under Section 20 of
20 this article.

21 SECTION 5.29. Sections 20(a) and (c), Information Resources
22 Management Act (Article 4413(32j), Revised Statutes), are amended
23 to read as follows:

24 (a) Each state agency's information resources manager shall
25 prepare an annual performance report. The report shall describe
26 the agency's management of information resources in the preceding
27 fiscal year and contain a competitive cost review of the agency's

1 information resources activities.

2 (c) The annual performance report must contain:

3 (1) an assessment, by application, of the progress
4 made toward implementing the agency strategic plan;

5 (2) an assessment of the progress made toward
6 implementing the agency's final operating plan, which notes and
7 explains any major differences between that plan and actual
8 accomplishments;

9 (3) a summary, by project, of the major functional
10 uses of information resources by the agency;

11 (4) a summary, by project, of the total estimated
12 expenditures for information resources management and use by the
13 agency, including allocated administrative costs;

14 (5) a comparison of the agency's expenditures for
15 information resources in the preceding fiscal year with the
16 appropriations for those resources in the agency's approved budget,
17 which notes and justifies differences between the two;

18 (6) an inventory, by major category as defined by rule
19 of the department, of the agency's information resources
20 technologies, which specifically identifies the resources acquired
21 during the preceding fiscal year; [and]

22 (7) an assessment of opportunities for participation
23 with other state agencies in the use and management of information
24 resources; and

25 (8) a summary, by project, of the competitive cost
26 reviews for information resources activities by the agency,
27 including an analysis of interagency and private sector solutions.

1 SECTION 5.30. Subsection (b), Section 21, Information
2 Resources Management Act (Article 4413(32j), Revised Statutes), is
3 amended to read as follows:

4 (b) Services provided under this section may include:

- 5 (1) automation feasibility studies;
6 (2) systems analysis and design;
7 (3) program development and maintenance;
8 (4) computer operation;
9 (5) remote device installation and services;
10 (6) management of data processing facilities;
11 (7) consulting services;
12 (8) training;
13 (9) ~~[technology-evaluation;~~
14 ~~[+10]~~ installation and maintenance of interagency
15 networks;
16 (10) [+11] operation of a disaster recovery site to
17 prevent loss of information; and
18 (11) [+12] other related services.

19 SECTION 5.31. The Information Resources Management Act
20 (Article 4413(32j), Revised Statutes) is amended by adding Section
21 21A to read as follows:

22 Sec. 21A. TECHNOLOGY EVALUATION CENTER. (a) The
23 department, through its information resources technology evaluation
24 center, shall:

- 25 (1) conduct technology-related research;
26 (2) take actions to support the appropriate use of
27 technology to deliver publicly needed services;

1 (3) collect, analyze, and assimilate information
2 relating to all areas of communications and computing;

3 (4) take actions to expedite the creation of advanced
4 networking and computing system services;

5 (5) take actions to improve the state's research and
6 economic competitiveness;

7 (6) conduct studies, investigations, and research
8 designed to produce strategic plans for the use of technology in
9 public services; and

10 (7) use research generated in the private sector to
11 accomplish its objectives and perform its duties under this
12 section.

13 (b) Other state agencies and governmental entities may
14 contract with the department to accomplish the purposes of this
15 section. Chapter 771, Government Code, does not apply to a
16 contract under this subsection.

17 (c) The department may contract with or award grants to
18 persons or entities outside of government to accomplish the
19 purposes of this section. Articles 601i and 601j, Revised
20 Statutes, and the State Purchasing and General Services Act
21 (Article 601b, Vernon's Texas Civil Statutes) do not apply to a
22 contract or grant awarded by the department under this section.
23 The State Purchasing and General Services Act (Article 601b,
24 Vernon's Texas Civil Statutes) does not apply to a purchase made
25 under such a contract or grant. When the department determines
26 that a research project conducted under a contract or grant awarded
27 by the department under this section has been successfully

1 concluded, those laws and this article apply to subsequent
2 purchases and contracts that relate to the research.

3 SECTION 5.32. Title 20, Revised Statutes, is amended by
4 adding Article 601i to read as follows:

5 Art. 601i. CONSULTING SERVICES

6 Sec. 1. SHORT TITLE. This article may be cited as the
7 Consulting Services Act.

8 Sec. 2. DEFINITIONS. In this article:

9 (1) "Consulting services" means the human service of
10 studying or advising a state agency but does not include services
11 covered under the Professional Services Procurement Act (Article
12 664-4, Vernon's Texas Civil Statutes).

13 (2) "State agency" has the meaning assigned by Section
14 1.02, State Purchasing and General Services Act (Article 601b,
15 Vernon's Texas Civil Statutes).

16 Sec. 3. APPLICABILITY. (a) This article applies to the
17 receipt of consulting services by a state agency under a contract
18 that does not involve the traditional relationship of employer and
19 employee. This article, including rules adopted by the comptroller
20 or governor under this article and the requirement of a finding of
21 need by the governor, also applies to an amendment to or an
22 extension of such a contract.

23 (b) This article applies to consulting services that a state
24 agency purchases with funds:

25 (1) appropriated by the legislature;

26 (2) generated by the statutory duties of a state
27 agency; or

1 (3) received from the federal government to the extent
2 that federal laws or regulations do not conflict with this Act.

3 (c) This article does not apply to a contract to which
4 Article 601j, Revised Statutes, applies.

5 Sec. 4. CERTAIN SERVICES EXCEPTED FROM ARTICLE. (a) If the
6 governor, comptroller, and General Services Department consider
7 that it is more advantageous to the state for the procurement of a
8 particular consulting service to be subject to the procedures of
9 Article 3, State Purchasing and General Services Act (Article 601b,
10 Vernon's Texas Civil Statutes), rather than to the procedures of
11 this article, they may make a memorandum of understanding to that
12 effect and each adopt that memorandum of understanding by rule.
13 State agency procurement of a consulting service included in a
14 memorandum of understanding adopted under this subsection is
15 subject to Article 3, State Purchasing and General Services Act
16 (Article 601b, Vernon's Texas Civil Statutes), and not subject to
17 the requirements of this article.

18 (b) The comptroller by rule may define circumstances in
19 which state agency procurement of certain consulting services that
20 will cost less than a minimum amount established by the comptroller
21 are excepted from the requirements of this article, if the
22 comptroller determines that it would be more cost-effective for the
23 state.

24 (c) The services of a consultant whose services are
25 determined by the governing board of a retirement system trust fund
26 to be necessary for the performance of its fiduciary duties under
27 the state constitution are exempted from this article, except that

1 the governing board shall comply with Section 7(c) of this article.
2 Contracts made under this subsection are not void for failure to
3 comply with the requirements of the article.

4 Sec. 5. CONTRACTS VOID. (a) A contract made by a state
5 agency for the receipt of a service that is subject to this article
6 is void if the contract or the procedures under which the contract
7 was awarded violate this article or a rule adopted under this
8 article.

9 (b) If a contract is void under this section, the
10 comptroller or a state agency may not make any payments under the
11 contract.

12 Sec. 6. FINDING OF NEED. (a) A state agency may not
13 contract to receive consulting services unless:

14 (1) the governor issues a written finding of need for
15 the agency to obtain the service under a contract to which this
16 article applies;

17 (2) the governor does not inform the state agency of
18 the governor's decision by the 45th day after the date that the
19 governor's office received the request for a finding of need; or

20 (3) the contract is excepted from this article under
21 Section 4 of this article.

22 (b) The governor may adopt rules for the procedures a state
23 agency must follow when requesting a finding of need and
24 demonstrating the need to the governor.

25 Sec. 7. REQUIRED PROCEDURES. (a) The comptroller shall
26 adopt rules that govern the procedures for making a contract for
27 consulting services under this article. The comptroller's rules

1 under this section:

2 (1) must require adequate advance public notice of
3 requests for bids and proposals;

4 (2) may determine the form of notice required as
5 appropriate in different circumstances;

6 (3) may determine the extent to which bids, proposals,
7 or opportunities for negotiation are most advantageous to the state
8 and required as appropriate in different circumstances, and
9 determine the procedures for bids, proposals, and negotiations
10 leading to the award of a contract;

11 (4) may determine, based on what is most advantageous
12 to the state, the extent to which demonstrated competence and
13 qualifications should be taken into account when a state agency
14 evaluates a bid or proposal in different circumstances; and

15 (5) may be modeled in part on other state laws that
16 govern bids and proposals in public contracting, to the extent
17 appropriate.

18 (b) The governor may exempt a state agency from all or part
19 of the comptroller's rules under this section if the governor
20 determines that an unforeseen emergency has arisen that makes
21 compliance with all or part of the rules infeasible. For purposes
22 of this subsection, an unforeseen emergency is an emergency that
23 the agency could not reasonably be expected to foresee. The
24 governor may adopt rules for the administration of this subsection.

25 (c) No later than the 10th day after executing a consulting
26 services contract, a state agency that enters into a contract under
27 this article with a value that exceeds \$10,000 shall file with the

1 secretary of state:

2 (1) a description of the activities that the private
3 consultant will conduct;

4 (2) the name and business address of the private
5 consultant;

6 (3) the total value and the beginning and ending dates
7 of the contract; and

8 (4) the due dates of documents, films, recordings, or
9 reports that the private consultant is required to present to the
10 agency.

11 (d) On receipt of the information described in Subsection
12 (c) of this section, the secretary of state shall publish the
13 information in the Texas Register.

14 Sec. 8. CONFLICTS OF INTEREST. An officer or employee of a
15 state agency who has a financial interest in a firm or corporation
16 that provides contracted services under this article and that
17 submits an offer to provide services under this article to the
18 agency, or who is related within the second degree by consanguinity
19 or affinity to a person having that financial interest, shall
20 report the financial interest to the executive head of the state
21 agency not later than the 10th day after the date on which the
22 contractor submits the contracted services offer.

23 Sec. 9. JOINT RULES; REVIEW AND COMMENT FOR RULES. (a) The
24 governor, the comptroller, and the Department of Information
25 Resources shall develop joint rules under Sections 7(a)(1) and (2)
26 of this article and under Sections 6(a)(1) and (2), Article 601j,
27 Revised Statutes.

1 (b) The comptroller shall submit proposed rules under this
2 article to the governor and to the General Services Department for
3 review and comment before adopting the rules.

4 Sec. 10. PROCUREMENT THROUGH GENERAL SERVICES DEPARTMENT.

5 (a) At the request of a state agency, the General Services
6 Department shall procure services that are covered by this article
7 for the agency.

8 (b) The department may require reimbursement for the costs
9 it incurs when it performs a service under this section.

10 Sec. 11. ARCHIVES. (a) After a state agency's contract
11 with a consultant under this article has ended, the state agency
12 shall, upon request, supply the Legislative Budget Board and the
13 Governor's Budget and Planning Office with copies of all documents,
14 films, recordings, or reports developed by the consultant.

15 (b) Copies of all documents, films, recordings, or reports
16 developed by the consultant shall be filed with the Texas State
17 Library and Archives Commission and shall be retained by the
18 library for at least five years after receipt.

19 (c) The Texas State Library and Archives Commission shall
20 compile a list of documents, films, recordings, and reports
21 submitted to it under Subsection (b) of this section and shall file
22 the list at the end of each calendar quarter with the secretary of
23 state for publication in the Texas Register.

24 Sec. 12. COORDINATION WITH DEPARTMENT OF INFORMATION
25 RESOURCES. The comptroller and the Department of Information
26 Resources shall adopt by rule a memorandum of understanding that
27 coordinates their duties under this article and Article 601j,

1 Revised Statutes.

2 SECTION 5.33. Title 20, Revised Statutes, is amended by
3 adding Article 601j to read as follows:

4 Art. 601j. INFORMATION RESOURCES SERVICES

5 Sec. 1. DEFINITIONS. In this article:

6 (1) "Department" means the Department of Information
7 Resources.

8 (2) "Information resources services" means services
9 relating to information resources technologies.

10 (3) "Information resources technologies" has the
11 meaning assigned by Section 3, Information Resources Management Act
12 (Article 4413(32j), Revised Statutes).

13 (4) "State agency" has the meaning assigned by Section
14 1.02, State Purchasing and General Services Act (Article 601b,
15 Vernon's Texas Civil Statutes).

16 Sec. 2. APPLICABILITY. (a) This article applies to the
17 receipt of services relating to information resources technologies
18 by a state agency under a contract that does not involve the
19 traditional relationship of employer and employee. This article,
20 including rules adopted by the department or governor under this
21 article and the requirement of a finding of need by the governor,
22 also applies to an amendment to or an extension of such a contract.

23 (b) Article 601i, Revised Statutes, and the Professional
24 Services Procurement Act (Article 664-4, Vernon's Texas Civil
25 Statutes) do not apply to a contract to which this article applies.

26 Sec. 3. CERTAIN SERVICES EXCEPTED FROM ARTICLE. The
27 department by rule may define circumstances in which state agency

1 procurement of certain services relating to information resources
2 technologies that will cost less than a minimum amount established
3 by the department are excepted from the requirements of this
4 article, if the department determines that it would be more
5 cost-effective for the state.

6 Sec. 4. CONTRACTS VOID. (a) A contract made by a state
7 agency for the receipt of a service that is subject to this article
8 is void if the contract or the procedures under which the contract
9 was awarded violate this article or a rule adopted under this
10 article.

11 (b) If a contract is void under this section, the
12 comptroller or a state agency may not make any payments under the
13 contract.

14 Sec. 5. FINDING OF NEED. (a) A state agency may not
15 contract to receive services relating to information resources
16 technologies unless:

17 (1) the governor issues a written finding of need for
18 the agency to obtain the service under a contract to which this
19 article applies;

20 (2) the governor does not inform the state agency of
21 the governor's decision by the 45th day after the date that the
22 governor's office received the request for a finding of need; or

23 (3) the contract is excepted from this article under
24 Section 3 of this article.

25 (b) The governor may adopt rules for the procedures a state
26 agency must follow when requesting a finding of need and
27 demonstrating the need to the governor.

1 Sec. 6. REQUIRED PROCEDURES. (a) The department shall
2 adopt rules that govern the procedures for making a contract for
3 services under this article. The department's rules under this
4 section:

5 (1) must require adequate advance public notice of
6 requests for bids and proposals;

7 (2) may determine the form of notice required as
8 appropriate in different circumstances;

9 (3) may determine the extent to which bids, proposals,
10 or opportunities for negotiation are most advantageous to the state
11 and required as appropriate in different circumstances and
12 determine the procedures for bids, proposals, and negotiations
13 leading to the award of a contract;

14 (4) may determine, based on what is most advantageous
15 to the state, the extent to which demonstrated competence and
16 qualifications should be taken into account when a state agency
17 evaluates a bid or proposal in different circumstances; and

18 (5) may be modeled in part on other state laws that
19 govern bids and proposals in public contracting to the extent
20 appropriate.

21 (b) The governor may exempt a state agency from all or part
22 of the department's rules under this section if the governor
23 determines that an unforeseen emergency has arisen that makes
24 compliance with all or part of the rules infeasible. For purposes
25 of this subsection, an unforeseen emergency is an emergency that
26 the agency could not reasonably be expected to foresee. The
27 governor shall adopt rules for the administration of this

1 subsection.

2 Sec. 7. CONFLICTS OF INTEREST. An officer or employee of a
3 state agency who has a financial interest in a firm or corporation
4 that provides contracted services under this article and that
5 submits an offer to provide services under this article to the
6 agency or who is related within the second degree by consanguinity
7 or affinity to a person having that financial interest shall report
8 the financial interest to the executive head of the state agency
9 not later than the 10th day after the date on which the contractor
10 submits the contracted services offer.

11 Sec. 8. JOINT RULES; REVIEW AND COMMENT FOR RULES. (a) The
12 governor, the department, and the comptroller shall develop joint
13 rules under Sections 6(a)(1) and (2) of this article and under
14 Sections 7(a)(1) and (2), Article 601i, Revised Statutes.

15 (b) The department shall submit proposed rules under this
16 article to the governor, the comptroller, and the General Services
17 Department for review and comment before adopting the rules.

18 Sec. 9. PROCUREMENT THROUGH GENERAL SERVICES DEPARTMENT.
19 (a) At the request of a state agency, the General Services
20 Department shall procure services that are covered by this article
21 for the agency.

22 (b) Either house of the legislature and any committee or
23 agency of the legislature may use the services of the General
24 Services Department to procure services under this article.

25 (c) The department may require reimbursement for the cost it
26 incurs when it performs a service under this section.

27 Sec. 10. ARCHIVES. (a) After a state agency's contract

1 under this article has ended, the state agency shall, upon request,
2 supply the Legislative Budget Board and the Governor's Budget and
3 Planning Office with copies of all documents, films, recordings, or
4 reports developed under the contract.

5 (b) Copies of all documents, films, recordings, or reports
6 developed under the contract shall be filed with the Texas State
7 Library and Archives Commission and shall be retained by the
8 library for at least five years after receipt.

9 (c) The Texas State Library and Archives Commission shall
10 compile a list of documents, films, recordings, and reports
11 submitted to it under Subsection (b) of this section and shall file
12 the list at the end of each calendar quarter with the secretary of
13 state for publication in the Texas Register.

14 Sec. 11. COORDINATION WITH COMPTROLLER. The comptroller and
15 the department shall adopt by rule a memorandum of understanding
16 that coordinates their duties under this article and Article 601i,
17 Revised Statutes.

18 PART 6. MISCELLANEOUS TRAVEL REGULATIONS

19 SECTION 6.01. Title 117, Revised Statutes, is amended by
20 adding Article 6823c to read as follows:

21 Art. 6823c. TRAVEL REGULATIONS

22 Sec. 1. DEFINITIONS. In this article:

23 (1) "Appropriated funds" means funds appropriated in
24 the General Appropriations Act.

25 (2) "Designated headquarters" means:

26 (A) the area within the municipal limits of the
27 incorporated area in which the place of employment of a state

1 employee is located; or

2 (B) if a place of employment is located within
3 an unincorporated area, the area within a five-mile radius of the
4 place of employment.

5 (3) "Incidental expense" means a necessary and
6 reasonable expense that a state employee incurs while traveling on
7 official state business. The term does not include meal, lodging,
8 or transportation expenses; expenses of a personal nature; expenses
9 that a state employee would incur regardless of whether the
10 employee was traveling; or tips and gratuities.

11 (4) "Institution of higher education" has the meaning
12 assigned by Section 61.003, Education Code.

13 (5) "Key official" means a head of an agency or a
14 person holding a position designated as exempt in accordance with
15 the Position Classification Act of 1961 (Article 6252-11, Vernon's
16 Texas Civil Statutes).

17 (6) "State agency" means a unit of state government
18 that uses appropriated funds to pay or reimburse the travel
19 expenses of its state employees.

20 (7) "State employee" means an individual employed by a
21 state agency, including a state official, a head of agency, a chief
22 deputy, a chief clerk, and a key official. The term does not
23 include a member of the legislature.

24 (8) "Travel expense" means a meal, lodging,
25 transportation, or incidental expense.

26 Sec. 2. OFFICIAL STATE BUSINESS. A state agency may
27 reimburse a state employee for a travel expense only if the

1 employee incurs the expense while traveling on official state
2 business.

3 Sec. 3. TRAVEL COORDINATORS. (a) Each state agency shall
4 designate an employee of the agency to be the agency's travel
5 coordinator.

6 (b) A travel coordinator is responsible for ensuring that
7 the coordinator's employing state agency obtains the most
8 cost-efficient travel arrangements possible when the agency's
9 employees travel on official state business.

10 Sec. 4. MINIMIZING TRAVEL EXPENSES. (a) A state agency
11 shall minimize the travel expenses incurred by the agency and its
12 state employees to the extent possible considering the agency's
13 constitutional and statutory responsibilities.

14 (b) When a state agency or state employee is making
15 arrangements for travel on official state business, the agency or
16 employee shall consider all relevant factors and circumstances to
17 obtain the most cost-efficient arrangements.

18 (c) A state agency or state employee shall make travel
19 arrangements sufficiently in advance of the travel to take
20 advantage of available discounts.

21 (d) If a state employee makes travel arrangements that
22 exceed the lowest cost arrangements possible, the employee must
23 justify the arrangements to the employee's employing state agency.
24 If the employee fails to justify the higher cost or the employing
25 state agency does not approve the justification, then the agency
26 may not pay or reimburse the employee for the arrangements.

27 Sec. 5. GENERAL APPROPRIATIONS ACT. Except to the extent

1 that it is in conflict with this article, the General
2 Appropriations Act governs the procedures, amounts, timing, limits,
3 required documentation, permissible payees, distinctions between
4 different types of state employees, and all other details
5 concerning travel expense expenditures by a state agency.

6 Sec. 6. TRANSPORTATION VIA MOTOR VEHICLE. (a) This section
7 applies only when a state employee travels on official state
8 business using the employee's personally owned or leased motor
9 vehicle.

10 (b) A state agency may reimburse a state employee for
11 mileage at the mileage reimbursement rate specified in the General
12 Appropriations Act.

13 (c) The comptroller shall periodically adopt a mileage guide
14 that includes a chart showing the shortest route between points.
15 In determining the shortest route between points, the comptroller
16 shall consider farm-to-market and ranch-to-market roads.

17 (d) Except as provided in Subsection (e) of this section,
18 reimbursable mileage may not exceed the shortest highway mileage
19 between the point of origin and the final point of destination as
20 indicated in the mileage guide. If a state employee conducts
21 official state business at points between the point of origin and
22 the final point of destination, the computation of the highway
23 mileage must consider the business conducted at the intermediate
24 points.

25 (e) If reimbursement for mileage is authorized, a state
26 agency may reimburse a state employee for mileage that exceeds the
27 mileage specified in the adopted mileage guide if point-to-point

1 mileage is listed on the claim form submitted to the comptroller.

2 (f) If two, three, or four state employees of the same state
3 agency with the same itinerary travel for the same official state
4 business, the agency may reimburse only one of those employees for
5 the use of a personally owned or leased motor vehicle. If more
6 than four employees of the same state agency with the same
7 itinerary travel for the same official state business, a state
8 agency may reimburse for the use of a personally owned or leased
9 motor vehicle on the basis of one vehicle for each four employees
10 and for each fraction in excess of a multiple of four employees.
11 This subsection does not apply if the head of the state agency
12 determines in advance of travel that it is infeasible for employees
13 to travel together in the same motor vehicle.

14 Sec. 7. TRANSPORTATION VIA RENTED OR PUBLIC CONVEYANCES.

15 (a) A state employee may use rented or public conveyances when
16 traveling on official state business.

17 (b) A state employee may not be reimbursed for
18 transportation expenses on a common carrier in an amount exceeding
19 the lowest available fare.

20 (c) Before deciding to use a commercial flight to travel on
21 official state business, a state employee shall consider the
22 availability and cost of a flight offered by the State Aircraft
23 Pooling Board.

24 Sec. 8. DIRECT PAYMENTS TO VENDORS. A state agency may pay
25 a vendor for a travel expense only if:

26 (1) a state employee incurs the expense while
27 traveling on official state business; and

1 (2) the General Appropriations Act authorizes the
2 payment.

3 Sec. 9. TRAVEL EXPENSES INCURRED WHILE ON LEAVE. A state
4 agency may pay or reimburse a state employee for the travel
5 expenses the employee incurs while on personal or compensatory
6 leave if:

7 (1) the personal or compensatory leave is used while
8 the employee is away from the employee's designated headquarters;

9 (2) the primary purpose of the employee's being away
10 from the employee's designated headquarters is to conduct official
11 state business; and

12 (3) the agency determines that returning the employee
13 to the employee's designated headquarters while on personal or
14 compensatory leave would not be cost-effective or would be
15 impracticable.

16 Sec. 10. TRAVEL TO A FOREIGN COUNTRY. (a) A state agency
17 may not pay or reimburse a state employee for the travel expenses
18 incurred while traveling to a foreign country unless the governor
19 provides written approval of the travel.

20 (b) The governor may provide blanket approval for travel to
21 foreign countries to the Department of Public Safety and the
22 International Trade Development Division of the Texas Department of
23 Commerce.

24 (c) This section does not apply when a state employee
25 travels to Mexico, Canada, Alaska, Hawaii, or a possession of the
26 United States.

27 (d) The governor may designate an employee of the governor's

1 office to provide the approvals required by this section.

2 Sec. 11. REIMBURSEMENT FOR MEALS. (a) A state agency may
3 not reimburse a state employee for a midday meal unless the
4 employee is traveling away from designated headquarters overnight.

5 (b) A state agency may not reimburse a state employee for a
6 morning or evening meal unless the employee leaves home three hours
7 prior to the beginning of the employee's normal working hours or
8 remains away from home three hours after normal working hours
9 because official state business requires an extension of the normal
10 workday.

11 (c) A state employee whose official duties require routine
12 travel away from the employee's designated headquarters is not
13 eligible for per diem reimbursement for meals relating to routine
14 work periods.

15 Sec. 12. PROSPECTIVE STATE EMPLOYEES. (a) A state agency
16 may reimburse a prospective state employee for a travel expense
17 incurred while visiting the agency for an interview or other type
18 of employment evaluation if the agency initiates the visit.

19 (b) A state agency may pay a vendor for a travel expense
20 incurred by a prospective state employee while visiting the agency
21 for an interview or other type of employment evaluation if the
22 agency initiates the visit.

23 (c) Except as otherwise provided in this article, a state
24 agency must treat a prospective state employee as a state employee
25 for the purposes of:

26 (1) determining the amount of a reimbursement or a
27 payment to a vendor; and

1 (2) all other requirements in this article or the
2 General Appropriations Act regarding a reimbursement or a payment
3 to a vendor.

4 Sec. 13. EXCESS REIMBURSEMENTS. If a state employee
5 receives a reimbursement of travel expenses that exceeds the amount
6 to which the employee is entitled under this article or the General
7 Appropriations Act, the state employee shall immediately return the
8 amount of the excess.

9 Sec. 14. CONFLICTS OF INTEREST. Unless otherwise authorized
10 by law, a state employee may not accept money or a travel expense
11 reimbursement from a person or entity that the state intends to
12 audit, examine, or investigate or is auditing, examining, or
13 investigating. A state employee who violates this section shall
14 forfeit the money or travel expense reimbursement to the state.
15 The comptroller shall credit the forfeitures to the general revenue
16 fund.

17 Sec. 15. FORMS. A state agency must submit a travel
18 reimbursement claim on the form that the comptroller requires. The
19 comptroller may decide by rule the design of the form and the
20 information that a state agency must include on the form.

21 Sec. 16. RULES. The comptroller shall adopt rules to
22 facilitate the administration and enforcement of this article and
23 the travel provisions in the General Appropriations Act.

24 Sec. 17. EXCLUSIONS. Except to the extent required by other
25 laws, this article and the travel provisions in the General
26 Appropriations Act do not apply if:

27 (1) a state agency pays, reimburses, or advances

1 travel expenses from other than appropriated funds;

2 (2) a state employee of the athletic department of an
3 institution of higher education incurs travel expenses; or

4 (3) a federal law or regulation irreconcilably
5 conflicts with this article or the travel provisions in the General
6 Appropriations Act.

7 SECTION 6.02. Section 24.019(a), Government Code, is amended
8 to read as follows:

9 (a) A district judge engaged in the discharge of official
10 duties in a county other than the judge's county of residence is
11 entitled to traveling and other necessary expenses, as provided by
12 Article 6823c, Revised Statutes [~~the-Travel-Regulations-Act-of-1959~~
13 ~~{Article-6823a7-Vernon's-Texas-Civil-Statutes}~~].

14 SECTION 6.03. Section 43.004(a), Government Code, is amended
15 to read as follows:

16 (a) A district attorney engaged in the discharge of official
17 duties in a county other than the district attorney's county of
18 residence is entitled to traveling and other necessary expenses, as
19 provided by Article 6823c, Revised Statutes [~~the-Travel-Regulations~~
20 ~~Act-of-1959-{Article-6823a7-Vernon's-Texas-Civil-Statutes}~~].

21 SECTION 6.04. Section 73.003(c), Government Code, is amended
22 to read as follows:

23 (c) If a case is transferred to a court that regularly sits
24 not more than 35 miles from the place the court from which the case
25 was transferred regularly sits, the court, at the discretion of its
26 chief justice and after notice to the parties or their counsel, may
27 hear oral arguments at the place it regularly sits. For purposes

1 of this subsection, the place where a court of appeals regularly
2 sits is that specified in Subchapter C, Chapter 22, and the mileage
3 between the places is determined by the comptroller under Article
4 6823c, Revised Statutes [~~Subsection---e7--Section--67--Travel~~
5 ~~Regulations-Act--of--1959--(Article--6823a7--Vernon's--Texas--Civil~~
6 ~~Statutes)~~].

7 SECTION 6.05. Chapter 231, Acts of the 56th Legislature,
8 Regular Session, 1959 (Article 6823a, Vernon's Texas Civil
9 Statutes), is repealed.

10 SECTION 6.06. Section 1, Chapter 2, Acts of the 64th
11 Legislature, Regular Session, 1975 (Article 6813c, Vernon's Texas
12 Civil Statutes), is amended to read as follows:

13 Sec. 1. The [~~Travel-expense-reimbursements-and-the~~] state's
14 participation in group insurance premiums for all state officers
15 and employees shall be in such sums or amounts as may be provided
16 for by the legislature in the General Appropriations Act.

17 SECTION 6.07. Section 2, Article 6823b, Revised Statutes, as
18 added by Section 6.01, S.B. No. 1, Acts of the 72nd Legislature,
19 Regular Session, 1991, is repealed.

20 SECTION 6.08. Article 6823c, Revised Statutes, as added by
21 this Act, applies only to travel expenses incurred by state
22 employees on or after the effective date of this Act. Travel
23 expenses incurred before the effective date of this Act are
24 governed by the law as it existed immediately before that date.

25 PART 7. CENTRALIZED PERSONNEL SERVICES

26 SECTION 7.01. Subtitle E, Title 4, Government Code, is
27 amended by adding Chapter 466 to read as follows:

1 CHAPTER 466. TEXAS OFFICE OF PERSONNEL SERVICES

2 Sec. 466.001. DEFINITIONS. In this chapter:

3 (1) "Commission" means the Texas Employment
4 Commission.

5 (2) "Director" means the director of the Texas Office
6 of Personnel Services.

7 (3) "Office" means the Texas Office of Personnel
8 Services.

9 (4) "State agency" means a department, commission,
10 board, office, or other agency in the executive branch of state
11 government that is created by the constitution or a statute of this
12 state. The term includes an institution of higher education as
13 defined by Section 61.003, Education Code.

14 Sec. 466.002. OFFICE. (a) The Texas Office of Personnel
15 Services is a division of the Texas Employment Commission.

16 (b) The office is under the direction of a director who is
17 employed by the commission. Under the direction of the commission,
18 the director is responsible for the administration of the office in
19 accordance with this chapter, the rules, orders, and directives
20 adopted under this chapter, and the policies and procedures of the
21 commission.

22 (c) The director may appoint a first assistant to whom the
23 director may delegate the authority and responsibility of the
24 office.

25 (d) The director shall employ staff as necessary to perform
26 the duties imposed under this chapter and the policies and
27 procedures of the commission.

1 (e) Each state agency that has an agency personnel officer
2 shall direct that officer to cooperate with the office. Each state
3 agency identified by the office as having one or more employees
4 assigned on a full-time basis to perform personnel activities may
5 transfer those employees to the office at the election of the
6 office if those activities would be more efficiently provided
7 centrally. An employee who is transferred to the office under this
8 subsection is entitled to the same compensation to which the
9 employee was entitled from the state agency preceding the transfer.

10 (f) Each state agency from which an employee is transferred
11 under Subsection (e) may not fill the position from which the
12 employee was transferred and may not otherwise permit an employee
13 to perform the duties identified under Subsection (e) on a
14 full-time basis unless the office authorizes that action. A state
15 agency from which employees are not transferred under Subsection
16 (e) may not permit an employee to perform personnel activities
17 unless authorized by the office. The office shall monitor the
18 hiring and staffing practices of state agencies to ensure
19 compliance with this subsection.

20 (g) The director may use without charge the Human Resources
21 Information System (HRIS) and the data processing facilities in the
22 office of the comptroller for purposes of this chapter until HRIS
23 is completed, at which time HRIS shall be transferred to the
24 office.

25 Sec. 466.003. UNIFORM GUIDELINES; OTHER RESPONSIBILITIES OF
26 OFFICE. (a) The commission by rule shall develop and adopt rules
27 and uniform guidelines for state agency personnel practices. The

1 guidelines must include recommendations or requirements relating to
2 the form, content, maintenance, and administrative procedures, as
3 applicable, regarding job applications, job postings, job
4 descriptions, job and personnel classifications, and staff
5 reductions in force, together with outplacement services, employee
6 grievance procedures, and other basic personnel policies. With
7 respect to staff reductions, guidelines must require that state
8 employees be given at least 60 days' advance notice of any intended
9 staff reduction. Guidelines must recognize prior state service as
10 a preferred qualification for all subsequent job postings that
11 become available.

12 (b) Except as provided by Subsection (c), each state agency
13 shall implement personnel policies based on the rules and uniform
14 guidelines. The office shall monitor the implementation of the
15 guidelines and shall report violations of the guidelines to the
16 state auditor for review.

17 (c) The office shall administer, on the state's behalf, the
18 following programs and shall perform the administrative
19 responsibilities and procedures associated with those programs:

20 (1) equal employment opportunity under Chapter 80,
21 Acts of the 65th Legislature, Regular Session, 1977 (Article
22 6252-11b, Vernon's Texas Civil Statutes), and Chapter 648, Acts of
23 the 69th Legislature, Regular Session, 1985 (Article 6252-16b,
24 Vernon's Texas Civil Statutes), but specifically excepting those
25 programs and functions covered by the Commission on Human Rights
26 Act (Article 5221k, Vernon's Texas Civil Statutes);

27 (2) employee attitude surveys for all state agencies;

1 (3) the position classification plan created under the
2 Position Classification Act of 1961 (Article 6252-11, Vernon's
3 Texas Civil Statutes);

4 (4) employee salary rate studies;

5 (5) safety officers training program under Article
6 8309g, Revised Statutes;

7 (6) the employee incentive and productivity bonus
8 program under the Texas Incentive and Productivity Act (Article
9 6252-29a, Vernon's Texas Civil Statutes);

10 (7) training programs concerning personnel-related
11 issues and management and employee development, including the
12 governor's management training program;

13 (8) use, control, and upkeep associated with training
14 facilities owned by any state agency;

15 (9) minimum grievance rules and guidelines for all
16 state agencies to follow, with reports by the office to the state
17 auditor on each agency's compliance with those rules and
18 guidelines; and

19 (10) recruitment of individuals and advertisement of
20 available personnel positions for state agencies on a statewide
21 basis.

22 (d) This Act does not affect the extent to which the
23 personnel of institutions of higher education are subject to the
24 position classification plan created under the Position
25 Classification Act of 1961 (Article 6252-11, Vernon's Texas Civil
26 Statutes). The Position Classification Act of 1961 governs that
27 matter.

1 Sec. 466.004. GENERAL POWERS AND DUTIES OF OFFICE;
2 DELEGATION. (a) The office shall:
3 (1) establish and conduct statewide programs to
4 review, audit, advise, and assist state agencies and their
5 employees, either directly or by means of a statewide toll-free
6 customer service telephone line, concerning those personnel
7 functions, requirements, or practices described by Section 466.003,
8 incorrect classifications, or duplicate personnel services;
9 (2) establish minimum standards for task-based
10 performance evaluations that shall be applied by each state agency
11 in the development of a performance evaluation system;
12 (3) maintain a centralized source of legal information
13 relating to state personnel issues, including information relating
14 to:
15 (A) state statutes;
16 (B) the personnel provisions of the General
17 Appropriations Act; and
18 (C) relevant attorney general opinions;
19 (4) establish and provide training programs to assist
20 state agencies in the development of supervisory and management
21 training programs relating to interviewing, employment law,
22 employee benefits, and other areas related to analogous personnel
23 issues;
24 (5) serve as the coordination office for training
25 information including information on existing training staff,
26 facilities, and materials to fully use all training resources; and
27 (6) recruit qualified individuals for state personnel

1 positions and advertise, as necessary, for those individuals or
2 advertise the availability of certain positions together with
3 necessary qualifications on a statewide basis.

4 (b) In its role as coordination office, the office may
5 establish and provide training programs to ensure that all state
6 agencies and employees are apprised of all employee benefits and
7 related programs and shall ensure that those programs are available
8 to all eligible employees.

9 (c) The commission may delegate powers and duties assigned
10 to the commission or the office under this chapter to the director.

11 Sec. 466.005. STATEWIDE APPLICANT DATABASE. (a) The office
12 shall be the recipient of all applications for state employment and
13 shall establish a statewide applicant database. If a state agency
14 receives a completed application for a job with the agency, the
15 agency shall send to the office the original application or a copy
16 of it. The office shall receive job postings from each state
17 agency and shall maintain a statewide database of available jobs.

18 (b) The commission shall establish rules for providing
19 qualified applicants with access to job-related information and
20 employers with access to information concerning qualified
21 applicants. On request by a state agency, the office shall conduct
22 any necessary testing and screening.

23 (c) This section does not prevent an applicant for a state
24 agency job from submitting an application directly to the state
25 agency.

26 SECTION 7.02. Section 1(3), Chapter 80, Acts of the 65th
27 Legislature, Regular Session, 1977 (Article 6252-11b, Vernon's

1 Texas Civil Statutes), is amended to read as follows:

2 (3) "Office [~~Equal-employment-office~~]" means the Texas
3 Office of Personnel Services [~~Equal-Employment-Opportunity-Office~~
4 ~~within-the-governor's-office~~].

5 SECTION 7.03. Sections 2, 3, and 4, Chapter 80, Acts of the
6 65th Legislature, Regular Session, 1977 (Article 6252-11b, Vernon's
7 Texas Civil Statutes), are amended to read as follows:

8 Sec. 2. SUBMISSION OF JOB INFORMATION. (a) When a job
9 vacancy occurs or is filled in Travis County within a state agency,
10 the agency shall complete and submit to the [~~commission-and-to-the~~
11 ~~equal--employment~~] office as soon as possible the appropriate
12 information form prescribed by the commission regarding the job
13 vacancy or placement.

14 (b) As soon as possible at the beginning of each month, a
15 state agency that is required by federal law or regulation to
16 follow a merit system of personnel administration [~~which-requires-a~~
17 ~~person--to--comply--with--the--Merit--System--Council's--employment~~
18 ~~procedures~~] before employing a [the] person shall complete and
19 submit to the [~~commission-and-to-the-equal-employment~~] office the
20 appropriate information form prescribed by the commission regarding
21 the job vacancies in Travis County subject to the merit system of
22 personnel administration [~~Merit---System---Council's---employment~~
23 ~~procedures~~] which were filled by the agency during the previous
24 month.

25 Sec. 3. JOB INFORMATION FORMS. The commission shall
26 prescribe forms for information from state agencies necessary for
27 the office [~~commission~~] to serve as a central processing agency for

1 state agency job opportunities in Travis County in accordance with
2 this Act.

3 Sec. 4. USE OF JOB INFORMATION. (a) The office
4 [~~commission~~] shall publicly list, in accordance with its
5 procedures, for at least 10 working days, notices of job vacancies
6 submitted to the office [~~commission~~] by a state agency under
7 Section 2(a) of this Act unless notified by the agency that the
8 vacancy has been filled.

9 (b) The office [~~commission~~] shall publicly post, in
10 accordance with its procedures, for a month, the information
11 submitted to the office [~~commission~~] by a state agency under
12 Section 2(b) of this Act. When a person expresses to the office
13 [~~commission~~] an interest in a job vacancy posted in accordance with
14 this subsection for which the office [~~commission~~] considers him
15 qualified, the office [~~commission~~] shall inform the person of the
16 appropriate merit system [~~Merit--System--Council~~] employment
17 procedures.

18 (c) When a person expresses to the office [~~commission~~] an
19 interest in a job vacancy listed in accordance with Subsection (a)
20 of this section for which the office [~~commission~~] considers him
21 qualified and which may be filled only after the person has
22 complied with merit system [~~the-Merit-System-Council's~~] employment
23 procedures, the office [~~commission~~] shall inform the person of
24 those procedures.

25 SECTION 7.04. Section 2, Chapter 648, Acts of the 69th
26 Legislature, Regular Session, 1985 (Article 6252-16b, Vernon's
27 Texas Civil Statutes), is amended to read as follows:

1 Sec. 2. Each state agency that prepares [~~submits~~] an annual
2 report [~~to--the--governor's--office~~] relating to equal employment
3 opportunities with that agency shall include in the report
4 statistical information [~~provided---to--the--governor's--office~~
5 ~~information~~] relating to the number of handicapped persons employed
6 by the agency and shall submit the report to the Texas Office of
7 Personnel Services.

8 SECTION 7.05. Sections 4 and 5, Position Classification Act
9 of 1961 (Article 6252-11, Vernon's Texas Civil Statutes), are
10 amended to read as follows:

11 Sec. 4. Commencing with the effective date of this Act, all
12 regular full-time salaried employments with the exceptions and
13 deferments specified hereinabove shall be made only in conformity
14 with the classes of work described in such Position Classification
15 Plan, and under the titles authorized by such Plan. The
16 Classification Officer [~~State-Auditor~~] shall examine or cause to be
17 examined in periodic post-audits of expenditures of State
18 departments and agencies, and by such methods as he deems
19 appropriate and adequate, whether employments have been made in
20 accordance with the provisions of this Act, and shall report the
21 facts as found to the Governor, the Comptroller, the Texas Office
22 of Personnel Services, and the Legislative Audit Committee.

23 Sec. 5. (a) Nothing in this Act shall be construed or
24 applied by any officer or employee of the State as interfering in
25 any way with existing statutory authorizations for governing bodies
26 and executive heads to employ such persons as they may choose, or
27 to select for promotion from one class of employment to another

1 such employees as they may choose, or to dismiss from employment by
2 the State such employees as they may choose to dismiss.

3 (b) It is further provided that wherever the phrase "General
4 Qualifications Requirements," or any words or phrases of similar
5 meaning, are found in the Position Classification Plan established
6 by this Act, such specifications thereunder as may be set forth for
7 experience and training, or for education, or for knowledges,
8 skills and abilities, or for physical conditions, shall only mean
9 those which are commonly desired by employing officers of the
10 State; and such indicated requirements shall not be interpreted as
11 having the force of law.

12 (c) The preceding two paragraphs of this Section, however,
13 shall not be construed as abrogating statutory authorizations for
14 certain State agencies to operate under employee merit systems as a
15 condition for qualifying for Federal grants-in-aid; and all such
16 merit systems as have been or may hereafter be agreed to by the
17 respective State agencies and agencies of the U.S. Government shall
18 be in full force and effect, subject only to the applicable laws of
19 this State.

20 (d) Should any governing board or executive head of an
21 agency affected by the provisions of this Act find need for the
22 employment of a person in a class or kind of work which he believes
23 is not described in the Position Classification Plan, such board or
24 executive head shall notify the Classification Officer of the
25 facts, and such Classification Officer shall promptly provide,
26 within the limitations of the General Appropriations Act [and
27 ~~subject-to-the-approval-of-the-State-Auditor--after--obtaining--the~~

1 ~~advice-of-the-Legislative-Audit-Committee]~~, either an existing or a
2 new class description of work and a corresponding salary range
3 which will permit such needed employment. Notification of such
4 action shall be made to the Comptroller of Public Accounts by the
5 Classification Officer. Nothing in this paragraph or in this Act,
6 however, shall be so construed as to authorize an increase in the
7 number of positions or in the amount of appropriations as may be
8 set forth for any such agency in the General Appropriations Act.

9 SECTION 7.06. Section 6, Position Classification Act of 1961
10 (Article 6252-11, Vernon's Texas Civil Statutes), as amended by
11 Chapter 599, Acts of the 72nd Legislature, Regular Session, 1991,
12 is amended to read as follows:

13 Sec. 6. (a) [~~There--is--hereby-established-in-the-office-of~~
14 ~~the-State-Auditor-the--position--of--Classification--Officer.---The~~
15 ~~Classification--Officer--shall--be--appointed-by-the-State-Auditor,~~
16 ~~subject-to--the--advice--and--approval--of--the--Legislative--Audit~~
17 ~~Committee.----No--person--shall--be--appointed--to--the--office--of~~
18 ~~Classification-Officer-who-has-not-had-a-minimum-of-six--(6)--years~~
19 ~~experience-in-position-classification-or-personnel-management-work,~~
20 ~~or--an--equivalent--period--of--experience-in-related-work-in-State~~
21 ~~employment-as-to-peculiarly-qualify-him--for--the--position.---Such~~
22 ~~Classification--Officer--shall-be-paid-such-annual-salary-as-may-be~~
23 ~~set-in-the-Appropriations-Act,--and-shall-have-for--the--performance~~
24 ~~of--his--duties--such-assistance-as-the-State-Auditor-may-assign-to~~
25 ~~him-from-the-appropriations-provided-for-that-purpose.~~

26 [~~(b)--The-Classification-Officer-may,--subject-to-the-approval~~
27 ~~of-the-State-Auditor-and-the-Legislative-Audit-Committee,--appoint-a~~

1 First-Assistant-Classification-Officer-to-whom-he-may--delegate--in
2 his--absence--statutory-authority-and-responsibility-as-is-provided
3 the-Classification-Officer-in-this-Act-and-other-acts--relating--to
4 the-Position-Classification-Plan.

5 [(e)]--The---Classification--Officer--also--may--have--at--his
6 disposal--when--available--without--charge--the--use--of--the--data
7 processing-center-in--the--office--of--the--Comptroller--of--Public
8 Accounts--for--purposes--of--processing-any-position-classification
9 data-that-might-be-pertinent-and-useful.

10 [(d)] The [In-accordance-with-the-provisions--of--law,--the]
11 Classification Officer is employed by the Texas Office of Personnel
12 Services, and shall maintain on a current and accurate basis the
13 Position Classification Plan, advise and assist State agencies to
14 insure equitable and uniform application of such Plan, conduct
15 [assist-in] personnel audits to assure conformity, and make such
16 recommendations as [he---may--think] necessary and desirable
17 respecting the operation and improvement of the Position
18 Classification Plan to the Governor and the Legislature.

19 (b) The Texas Office of Personnel Services, through the
20 [The] Classification Officer, also shall make periodic studies of
21 salary rates paid in industry and other governmental units for like
22 or similar work performed in the State Government, and shall report
23 its [his] findings and recommendations for the realistic adjustment
24 of State salary ranges to the Governor's Budget Office and to the
25 Legislative Budget Board by not later than October 1st immediately
26 preceding a Regular Session of the Legislature.

27 (c) [(e)] When exceptions to or violations of the Position

1 Classification Plan or of prescribed salary ranges are revealed by
2 personnel audits, the Classification Officer shall notify the
3 agency head in writing and specify the points of nonconformity or
4 violation. The executive head of such agency shall then have
5 reasonable opportunity to resolve the exception or end the
6 violation by reassigning the employee to another position title or
7 class consistent with the work actually performed, by changing the
8 employee's title or salary rate to conform to the prescribed
9 Classification Plan and salary range, or by obtaining a new class
10 description of work and salary range to correct the exception or
11 violation.

12 (d) ~~(f)~~ If no action is taken by the executive head of
13 such agency to correct or end the exception or violation within
14 twenty (20) calendar days following the date of the written
15 notification made by the Classification Officer, such Officer shall
16 make a written report of the facts to the Governor, and the
17 Legislative Budget Board, and the Texas Office of Personnel
18 Services. The Texas Office of Personnel Services ~~Governor~~ may
19 then determine~~[7--after--obtaining--the--advice--of--the--Legislative~~
20 ~~Audit--Committee7]~~ the action to be taken in correcting the
21 exception or violation and may~~[7--within-his-discretion7]~~ direct the
22 Comptroller not to issue payroll warrants for the employee or for
23 the position affected by the exception or violation until such
24 discrepancy has been corrected.

25 SECTION 7.07. Article 1, Texas Incentive and Productivity
26 Act (Article 6252-29a, Vernon's Texas Civil Statutes), is amended
27 to read as follows:

ARTICLE 1. GENERAL PROVISIONS

Sec. 1.001. DEFINITIONS [DEFINITION]. In this Act:

(1) "Commission" means the Texas Employment Commission.

(2) "Office" means the Texas Office of Personnel Services; [~~7--"commission"--means-the-Texas-Incentive-and-Productivity Commission~~].

Sec. 1.002. [~~COMMISSION:-----The----Texas----Incentive---and Productivity-Commission-is-an-agency-of-the-state.~~

[~~Sec.-1.003:--COMMISSION--MEMBERS:---(a)--The--commission--is composed-of-the-governor,--the-lieutenant-governor,--the-comptroller, the-state-treasurer,--the--administrator--of--the--Texas--Employment Commission,--the-chairman-of-the-Texas-Higher-Education-Coordinating Board--or--his--designee,--and-three-public-members-appointed-by-the governor-who--have--experience--in--the--administration--of--bonus, incentive,--or-related-programs-used-in-private-industry.~~

[~~(b)--A--member--of-the-commission-who-is-an-elected-official may-designate-another-person-to-act-in-the-official's--place--as--a full-voting-member-of-the-commission.~~

[~~(c)--The--governor--or--the--governor's--designee--serves-as chairman-of-the-commission.~~

[~~(d)--Public-members-serve-for-a-two-year-term,--with-the-term of-one-member-expiring-February-1-of-each--even-numbered--year--and the--term--of--two-members-expiring-February-1-of-each-odd-numbered year.~~

[~~Sec.-1.004:--APPLICATION-OF-SUNSET-ACT:--The-Texas-Incentive and-Productivity-Commission-is-subject--to--the--Texas--Sunset--Act~~

1 {Chapter--3257--Government-Code}--Unless-continued-in-existence-as
2 provided-by-that-chapter, the-commission-is-abolished-and-this--Act
3 expires-September-17-2001-

4 [Sec--1.005--EXECUTIVE-DIRECTOR, STAFF--(a)--The-commission
5 may-hire-an-executive-director-and-other-staff-necessary-to-perform
6 its-functions-

7 [(b)--The---commission---may---designate---separate--division
8 directors-to-oversee--the--administration--of--the--state--employee
9 incentive--program-under-Article-2-of-this-Act-and-the-productivity
10 bonus-program-under-Article-3-of-this-Act-

11 [Sec--1.006:] POWERS AND DUTIES OF COMMISSION. (a) The
12 commission shall develop policies, procedures, and recordkeeping
13 measures to administer this Act.

14 (b) The commission may adopt rules to carry out the purposes
15 of this Act.

16 (c) The commission may accept contributions or assistance
17 from private institutions and organizations and may request and
18 receive aid and assistance from the governor's office and other
19 state governmental bodies to provide for the effective
20 implementation of this Act.

21 Sec. 1.003 [1.007]. REPORT. The office [commission] shall
22 submit to the governor, the lieutenant governor, and the speaker of
23 the house of representatives not later than January 1 preceding
24 each regular session of the legislature a written report regarding
25 the office's [commission's] activities, decisions, awards, and
26 recommendations.

27 Sec. 1.004 [1.008]. REFERENCES IN OTHER LAW. Any reference

1 in law to the State Employee Incentive Commission or the
2 Productivity Bonus Commission means the Texas Office of Personnel
3 Services [~~Texas-Incentive-and-Productivity-Commission~~].

4 SECTION 7.08. Section 2.001(1), Texas Incentive and
5 Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes),
6 is amended to read as follows:

7 (1) "Agency coordinator" means an individual employed
8 by a state agency who is designated by the executive director of
9 that agency to act as the liaison between that agency and the
10 office [~~commission~~].

11 SECTION 7.09. Sections 2.002(b) and (f), Texas Incentive and
12 Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes),
13 as amended by Chapter 150, Acts of the 72nd Legislature, Regular
14 Session, 1991, are amended to read as follows:

15 (b) From funds appropriated or otherwise available for this
16 purpose, the office [~~commission~~] may grant awards to eligible state
17 employees who make suggestions that reduce state expenditures,
18 increase state revenues, increase state agency productivity, or
19 improve the quality of state services. An award is proportionately
20 related to the financial savings or benefit of the suggestion,
21 based on the net annual savings or increased revenues after
22 implementation costs. Only an approved and implemented employee
23 suggestion is eligible for an award. The office [~~commission~~] may
24 grant an award, and the comptroller may transfer funds under this
25 article, before the completion of the first year in which the
26 suggestion is implemented, based on actual or projected savings or
27 increased revenues, including savings or increased revenues that

1 result from increased productivity, that are certified by the
2 affected state agency and the office [commission].

3 (f) Based on a certification by the office [commission] and
4 the affected agency of the amount of actual or projected savings or
5 increased revenues that are attributable to an implemented
6 suggestion, the comptroller shall transfer that amount from the
7 fund or funds affected by the savings or increased revenues. The
8 comptroller shall transfer 40 percent of that amount back to the
9 fund from which the original appropriation to the affected fund or
10 funds was made, 40 percent of that amount to an appropriate fund
11 from which the affected agency may award merit pay increases to
12 persons in the agency, and 20 percent of that amount to a special
13 fund established for the office [commission] in the state treasury
14 from which the office [commission] shall award bonuses awarded
15 under this article and administer the office [commission]. If
16 increased productivity that is attributable to an implemented
17 suggestion results in savings or increased revenues that can be
18 computed as provided by Subsection (c) of this section but that
19 will not allow the affected agency to transfer or to have an
20 unexpended balance of appropriated money, the office [commission]
21 and the affected agency shall certify the amount of actual or
22 projected savings or increased revenues that are attributable to
23 the suggestion, and the comptroller shall transfer 20 percent of
24 that amount from the fund or funds affected by the savings or
25 increased revenues to the special fund established for the office
26 [commission] under this section. Any amounts that remain in the
27 office's [commission's] special fund established under this section

1 on the last day of a state fiscal biennium shall be transferred by
2 the comptroller to the General Revenue Fund or other funds as
3 appropriate.

4 SECTION 7.10. Sections 2.002(d) and (g), Texas Incentive and
5 Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes),
6 are amended to read as follows:

7 (d) The office [~~commission~~] may issue a certificate of
8 appreciation to each state employee who is granted an award under
9 this article.

10 (g) The office [~~commission~~] shall act as the final arbiter
11 of any dispute arising from the implementation of the program or
12 from eligibility determinations.

13 SECTION 7.11. Section 2.003(a), Texas Incentive and
14 Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes),
15 is amended to read as follows:

16 (a) Each state agency shall designate an agency coordinator.
17 The agency coordinator shall:

18 (1) promote agency employee participation in the
19 program;

20 (2) obtain an impartial evaluation of each proposed
21 employee suggestion;

22 (3) promote the implementation of adopted suggestions
23 by the agency;

24 (4) monitor the cost savings and other benefits that
25 result from the implementation of an employee suggestion;

26 (5) file reports with the office [~~commission~~] as
27 required by the rules of the commission; and

1 (6) arrange and conduct intraagency award ceremonies
2 to recognize agency employees who are granted awards under this
3 article.

4 SECTION 7.12. Sections 2.005(a), (b), (e), and (f), Texas
5 Incentive and Productivity Act (Article 6252-29a, Vernon's Texas
6 Civil Statutes), are amended to read as follows:

7 (a) To be eligible for consideration under the program, an
8 employee suggestion must be submitted to the agency coordinator in
9 writing in the format prescribed by the commission. The employee
10 must sign the suggestion. The suggestion must propose a reasonable
11 method of implementation and must describe the type of cost savings
12 or other benefits foreseen by the employee if the suggestion is
13 adopted. The agency coordinator shall transmit all employee
14 suggestions, together with the evaluation of each of those
15 suggestions, to the office [~~commission~~] for further analysis and
16 comments regarding implementation not later than the 90th day after
17 the date on which the suggestion was received by the agency
18 coordinator.

19 (b) The office [~~commission~~] shall note any suggestion that
20 requires legislative action. If, as a direct result of the
21 employee's suggestion, legislation is passed to implement the
22 suggestion, the office [~~commission~~] shall consider the suggestion
23 for an award. The employee's agency coordinator shall notify the
24 office [~~commission~~] if implementing legislation is passed.

25 (e) If, after any necessary analysis, the office
26 [~~commission~~] determines that an employee suggestion has merit, the
27 office [~~commission~~] shall refer the suggestion to the appropriate

1 state agencies for proposed adoption and implementation. Final
2 adoption of an employee suggestion is at the discretion of the
3 chief administrative officers of each agency. An agency that
4 implements a suggestion proposed under this article shall provide
5 any information requested by the office [~~commission~~] that is
6 necessary to compute the amount of savings or other benefits
7 derived from the suggestion.

8 (f) The office [~~commission~~] shall notify in writing each
9 employee who proposes an employee suggestion of its final
10 determination on adoption or rejection of an employee suggestion
11 not later than the 30th day after the date on which the final
12 determination is rendered.

13 SECTION 7.13. Section 2.005(g), Texas Incentive and
14 Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes),
15 as added by Chapter 150, Acts of the 72nd Legislature, Regular
16 Session, 1991, is amended to read as follows:

17 (g) If an agency adopts a policy or procedure as a result of
18 an employee suggestion before the suggestion is submitted to the
19 agency coordinator as provided by Subsection (a) of this section,
20 the office [~~commission~~] may grant a bonus or issue a certificate of
21 appreciation to the employee or employees who made the suggestion
22 as provided by this article. Before the office [~~commission~~] grants
23 a bonus or issues a certificate of appreciation under this
24 subsection, an agency or an employee must demonstrate to the office
25 [~~commission~~] that:

26 (1) the employee or employees who will receive the
27 bonus or a certificate of appreciation are eligible under this

1 article;

2 (2) the suggestion is an eligible suggestion under
3 this article;

4 (3) the employee or employees proposed a reasonable
5 method of implementation and described the type of benefits or
6 savings foreseen to the agency before agency implementation; and

7 (4) the agency adopted the policy or procedure as a
8 result of the suggestion.

9 SECTION 7.14. Section 2.007(a), Texas Incentive and
10 Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes),
11 is amended to read as follows:

12 (a) An employee who proposes a suggestion under this article
13 may request the office [~~commission~~] to maintain the confidentiality
14 of the employee in the evaluation or award process. The office
15 [~~commission~~] shall maintain such an employee's confidentiality to
16 the greatest extent possible.

17 SECTION 7.15. Section 2.008(a), Texas Incentive and
18 Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes),
19 is amended to read as follows:

20 (a) The state may change or terminate the employee
21 suggestion program at any time without prior notice. An employee
22 may be compensated for a suggestion under the program only as
23 provided by this article. An employee may not appeal a decision of
24 the office [~~commission~~] to a court of law.

25 SECTION 7.16. Section 3.002, Texas Incentive and
26 Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes),
27 as amended by Chapter 150, Acts of the 72nd Legislature, Regular

1 Session, 1991, is amended to read as follows:

2 Sec. 3.002. PLAN; RULES. (a) The executive director of a
3 state agency may submit a plan to the office [~~commission~~] that
4 outlines a strategy to be followed by that agency or a division
5 within that agency that, if implemented, would cause the agency or
6 division to qualify for a productivity bonus under this article.

7 (b) The office [~~commission~~] may return any plan to the
8 executive director who submits it to request additional information
9 or clarification of details relating to the plan. The office
10 [~~commission~~] must approve an agency plan before a state agency may
11 apply for a productivity bonus for the agency or a division of the
12 agency. The office [~~commission~~] shall inform the executive
13 director in writing that the plan is approved or rejected not later
14 than the 30th day after the date the plan is received.

15 SECTION 7.17. Sections 3.003, 3.004, and 3.006, Texas
16 Incentive and Productivity Act (Article 6252-29a, Vernon's Texas
17 Civil Statutes), are amended to read as follows:

18 Sec. 3.003. APPLICATION. (a) After approval of a plan
19 submitted under Section 3.002 of this article, the executive
20 director of a state agency may apply to the office [~~commission~~] for
21 selection for a productivity bonus for the agency or a division
22 within the agency. To apply, the executive director must provide
23 the office [~~commission~~] with evaluation components developed by the
24 agency or division that establish a quantitative measure of the
25 agency's or division's productivity and performance.

26 (b) The application must be made in the form prescribed by
27 the commission. The application must be submitted to the office

1 [commission] not later than the 30th day before the last day of the
2 fiscal year and must be approved by the executive director of the
3 state agency.

4 Sec. 3.004. QUALIFICATIONS FOR AWARD. (a) To qualify for a
5 productivity bonus, a state agency or division of an agency that
6 elects to participate in the program must demonstrate to the office
7 [commission] that the agency or division operated at less cost
8 during the fiscal year than the amount appropriated to that agency
9 or division for that fiscal year or, if the appropriation for the
10 fiscal biennium was not specifically divided between the fiscal
11 years, the amount reasonably attributable to that fiscal year from
12 the total appropriation, with no decrease in the level of services
13 required to be rendered by the agency or division during that year.

14 (b) To qualify for a bonus, the office [commission] must
15 determine that the state agency's or division's claimed cost of
16 operation is not in whole or in part the result of:

17 (1) a lowering of the quality of the services
18 rendered;

19 (2) reduced pass-through or transfer expenditures;

20 (3) receipts realized in excess of budgeted amounts;

21 (4) failure to implement merited promotions,
22 reclassifications, or authorized salary increases;

23 (5) postponement of scheduled purchases, repairs, or
24 payments of accounts payable to a future fiscal year;

25 (6) stockpiling of inventory in the preceding fiscal
26 year in order to reduce requirements during the fiscal year;

27 (7) substitution of nonstate funds for state

1 appropriations; or

2 (8) any other practice, event, or device that the
3 office [~~commission~~] determines has caused a distortion that results
4 in an inaccurate claimed cost of operation.

5 (c) The office [~~commission~~] shall consider as a legitimate
6 savings a reduction in expenditures made possible by:

- 7 (1) reductions in overtime for eligible employees;
8 (2) elimination of consultant fees;
9 (3) elimination of budgeted positions;
10 (4) elimination of unnecessary travel;
11 (5) elimination of unnecessary printing and mailing;
12 (6) elimination of payments for unnecessary
13 advertising, membership dues, subscriptions, and other nonessential
14 outlays of state agency or division funds;
15 (7) increased efficiency in use of energy;
16 (8) improved office procedures and systems; and
17 (9) any other practice or device that the office
18 [~~commission~~] determines has resulted in verifiable savings.

19 Sec. 3.006. COMPARISON. (a) At the end of the fiscal year,
20 the office [~~commission~~] shall compare the expenditures of each
21 state agency or division that elects to participate in the
22 productivity bonus program for that fiscal year with the agency's
23 or division's appropriation for that fiscal year or the amount
24 attributable to that year from the total appropriation, if
25 appropriate, and shall determine the amount by which the agency or
26 division has reduced its cost of operations during the fiscal year.

27 (b) The office [~~commission~~] shall make any adjustments in

1 its determination that are necessary to eliminate distortions.
2 Those adjustments may include consideration of legislative
3 increases in employee compensation and inflationary increases in
4 the cost of services, materials, and supplies.

5 SECTION 7.18. Section 3.005(b), Texas Incentive and
6 Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes),
7 as amended by Chapter 150, Acts of the 72nd Legislature, Regular
8 Session, 1991, is amended to read as follows:

9 (b) The state treasurer shall create in the productivity
10 bonus fund a productivity bonus account for each state agency or
11 division participating in the productivity bonus program. During
12 the course of the fiscal year, the executive director of an
13 eligible agency shall monitor agency or division activities during
14 that period and shall estimate the savings resulting from increased
15 economy and efficiency. At the end of the fiscal year, the
16 executive director shall certify the amount of savings to the
17 comptroller, who shall transfer three-fourths of that amount from
18 the appropriation of the state agency to the agency's or division's
19 productivity bonus account and one-fourth of that amount from the
20 appropriation of the state agency to an account established for the
21 office [~~commission~~] in the fund, from which the office [~~commission~~]
22 may administer this Act.

23 SECTION 7.19. Sections 3.007(a), (c), and (d), Texas
24 Incentive and Productivity Act (Article 6252-29a, Vernon's Texas
25 Civil Statutes), are amended to read as follows:

26 (a) If the office [~~commission~~] determines that a state
27 agency or division qualifies for a productivity bonus, the office

1 [~~commission~~] shall notify the executive director of the agency.

2 (c) If the office [~~commission~~] awards a productivity bonus
3 to a division of a state agency, the balance of the amount in that
4 division's productivity bonus account shall be distributed between
5 the state agency to which the division belongs and the fund from
6 which the original division appropriation was made. One-third of
7 the balance shall be appropriated to that agency to be used by the
8 administration of the agency during the subsequent fiscal year to
9 further agency productivity. The remainder shall be credited to
10 the appropriate fund.

11 (d) If the office [~~commission~~] awards a productivity bonus
12 to an entire state agency, one-third of the balance in that
13 agency's productivity bonus account shall be appropriated to that
14 agency as provided by Subsection (c) of this section, and the
15 remainder shall be credited to the fund from which the original
16 agency appropriation was made.

17 SECTION 7.20. Section 3.007(b), Texas Incentive and
18 Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes),
19 as amended by Chapter 150, Acts of the 72nd Legislature, Regular
20 Session, 1991, is amended to read as follows:

21 (b) From the funds in the state agency's or division's
22 productivity bonus account, the office [~~commission~~] shall award to
23 the eligible employees of the agency or division an amount not to
24 exceed 25 percent of the amount in that account. The awarded
25 amount shall be distributed in equal shares to the eligible current
26 employees of the agency or division. A bonus made to any
27 individual employee may not exceed \$5,000. An eligible employee

1 who worked in the agency or division for less than the full fiscal
2 year or on a part-time basis is entitled to a pro rata share based
3 on the fraction of the fiscal year and the average fraction of the
4 work week that the employee worked in the agency or division. An
5 eligible employee under this section is an employee who:

6 (1) is an hourly, part-time, or temporary employee;
7 (2) is a classified employee under the Position
8 Classification Act of 1961 (Article 6252-11, Vernon's Texas Civil
9 Statutes); or

10 (3) performs functions that are equivalent to
11 functions performed by a classified employee in other state
12 agencies.

13 SECTION 7.21. (a) The Texas Incentive and Productivity
14 Commission and the equal employment opportunity office in the
15 governor's office are abolished. Any reference in law to the Texas
16 Incentive and Productivity Commission or the equal employment
17 opportunity office means the Texas Office of Personnel Services.

18 (b) The personnel, property, and records of the Texas
19 Incentive and Productivity Commission and the equal employment
20 opportunity office on the effective date of this part are
21 transferred to the Texas Office of Personnel Services.

22 (c) The personnel, including the classification officer,
23 property, and records of the state auditor's office on the
24 effective date of this part that relate primarily to the
25 administration of the state position classification plan are
26 transferred to the Texas Office of Personnel Services. The state
27 auditor shall determine which personnel, property, and records are

1 to be transferred under this subsection.

2 (d) A rule adopted by the Texas Incentive and Productivity
3 Commission, the equal employment opportunity office, or the
4 classification officer that is in effect on the effective date of
5 this part continues in effect until it is amended or repealed by
6 the Texas Employment Commission or it expires by its own terms.

7 SECTION 7.22. Any unexpended and unobligated funds
8 appropriated for the state fiscal biennium ending August 31, 1993,
9 for the programs described by Section 466.003(c), Government Code,
10 as added by this part, are transferred to the Texas Office of
11 Personnel Services for the purposes for which they were
12 appropriated. The Legislative Budget Board shall determine the
13 amounts of the funds to be transferred under this section.

14 SECTION 7.23. (a) This part takes effect September 1, 1992,
15 if the 72nd Legislature appropriates an amount before that date
16 specifically for the Texas Office of Personnel Services.

17 (b) If this part does not take effect as provided by
18 Subsection (a) of this section, this part, except Subsection (c) of
19 this section, takes effect on the first day of the first state
20 fiscal year for which the legislature appropriates an amount
21 specifically for the Texas Office of Personnel Services.

22 (c) If this part does not take effect as provided by
23 Subsection (a) of this section, this subsection takes effect
24 September 1, 1992, and the Texas Employment Commission shall
25 prepare and submit to the Legislative Budget Board a budget request
26 that would provide adequate funding for the Texas Office of
27 Personnel Services. The budget request must be prepared and

1 submitted in sufficient time for the request to be adequately
2 studied by the Legislative Budget Board and considered during the
3 regular session of the 73rd Legislature.

4 PART 8. REPEALER

5 SECTION 8.01. (a) The following laws are repealed:

6 (1) Sections 2.01-2.07, 2.09, 3.27, and 14.05, State
7 Purchasing and General Services Act (Article 601b, Vernon's Texas
8 Civil Statutes);

9 (2) Subsection (b), Section 6.051, State Purchasing
10 and General Services Act (Article 601b, Vernon's Texas Civil
11 Statutes), as added by Section 4, Chapter 779, Acts of the 71st
12 Legislature, Regular Session, 1989;

13 (3) Article 99, State Purchasing and General Services
14 Act (Article 601b, Vernon's Texas Civil Statutes); and

15 (4) Chapter 454, Acts of the 65th Legislature, Regular
16 Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes).

17 (b) Article 8, State Purchasing and General Services Act
18 (Article 601b, Vernon's Texas Civil Statutes), is repealed on
19 certification by the comptroller of the implementation of the fixed
20 asset component of the uniform statewide accounting system.

21 PART 9. TRANSITIONAL MATTERS

22 SECTION 9.01. (a) As soon as possible after the effective
23 date of this Act, the governor shall appoint the initial members of
24 the governing board of the General Services Department in
25 accordance with Article 601k, Revised Statutes, as added by this
26 Act. The governor shall appoint two members to terms expiring
27 February 1, 1993, two to terms expiring February 1, 1995, and two

1 to terms expiring February 1, 1997. The governor shall appoint the
2 initial executive director to a term expiring February 1, 1993.

3 (b) The department may not take action until at least a
4 quorum of the appointees have taken office and the executive
5 director has taken office. The governor shall set the amount of
6 the initial bond required of the executive director by Section
7 9(a), Article 601k, Revised Statutes, as added by this Act.

8 SECTION 9.02. (a) On the date that the General Services
9 Department may first take action under Section 9.01 of this Act,
10 the State Purchasing and General Services Commission is abolished.
11 On that date, the powers, duties, obligations, rights, contracts,
12 records, personnel, property, and unspent appropriations and other
13 funds of the commission are transferred to the department.

14 (b) All rules of the State Purchasing and General Services
15 Commission are continued in effect as rules of the General Services
16 Department until superseded by a rule of the department.

17 (c) Notwithstanding the changes in law made by this Act,
18 until the date that the State Purchasing and General Services
19 Commission is abolished as provided by this section, the members of
20 the commission on the effective date of this Act may continue in
21 office and exercise the powers and duties of the commission under
22 the law that governed the existence of the commission before the
23 effective date of this Act, and the prior law is continued in
24 effect for this purpose. The commission shall make any appropriate
25 transfers required of the department under this part if the
26 transfer under Subsection (a) of this section is delayed.

27 SECTION 9.03. If the State Purchasing and General Services

1 Commission has effectively authorized another state agency to take
2 an action, the action may be taken even if the action is taken
3 after the date that the commission is abolished unless the
4 authorization is lawfully rescinded by the General Services
5 Department before the action is taken.

6 SECTION 9.04. (a) The change in law to Section 5.20(c),
7 State Purchasing and General Services Act (Article 601b, Vernon's
8 Texas Civil Statutes), made by this Act that relates to allowing
9 bidders at least 30 days to respond to an invitation to bid, and
10 the change in law to Section 5.22(b), State Purchasing and General
11 Services Act, made by this Act that relates to allowing each
12 private architect/engineer at least 30 days to prepare for an
13 interview, apply only in relation to a contract for which the
14 General Services Department issues bid documents on or after the
15 effective date of this Act.

16 (b) The General Services Department is required to identify
17 only one of its own commercial activities for competitive cost
18 review under Section 13.03, State Purchasing and General Services
19 Act (Article 601b, Vernon's Texas Civil Statutes), as amended by
20 this Act, for the biennium ending August 31, 1993.

21 SECTION 9.05. (a) The school bus revolving fund formerly
22 established under Section 21.180, Education Code, is abolished
23 subject to the satisfaction of any valid outstanding obligations
24 against the fund. The General Services Department shall transfer
25 any money remaining in the fund after the satisfaction of all valid
26 outstanding obligations against the fund to the state treasury for
27 deposit in the general revenue fund. The department shall transfer

1 any money received by the department after the date the fund was
2 abolished that was owed to the fund before the date the fund was
3 abolished to the state treasury for deposit in the general revenue
4 fund.

5 (b) The changes in law made by this Act relating to a
6 contract for the lease of one or more school buses under Section
7 21.182, Education Code, and other law apply only to a contract made
8 on or after the effective date of this Act except that the
9 reporting requirements added to Subsection (h), Section 21.182,
10 Education Code, by this Act apply according to their terms to any
11 contract under Section 21.182. Otherwise, a contract for the lease
12 of one or more school buses that was made under Section 21.182,
13 Education Code, before the effective date of this Act is governed
14 by the law relating to a contract for the lease of one or more
15 school buses by a county or local district school board in effect
16 on the date that the contract was made, and that law is continued
17 in effect for this purpose.

18 SECTION 9.06. (a) The changes in law made by Part 4 of this
19 Act relating to the dissemination of information about the
20 architectural barriers program, the setting and collecting of fees
21 to recover program costs, and the transfer of that program from the
22 General Services Department to the Texas Department of Licensing
23 and Regulation apply beginning on the effective date of this Act.
24 All other changes in law made by Part 4 of this Act relating to the
25 architectural barriers program do not apply until January 1, 1992,
26 and until that date the former law governs the program and is
27 continued in effect for this purpose.

1 (b) On the effective date of this Act all powers, duties,
2 and obligations relating to the architectural barriers program are
3 transferred from the General Services Department to the Texas
4 Department of Licensing and Regulation as provided by this Act.
5 All records and property in the custody of the General Services
6 Department that relate to the program are transferred to the
7 Department of Licensing and Regulation. All appropriations to the
8 General Services Department for the operation of the program and
9 all employees of the General Services Department employed to
10 operate the program are transferred to the Department of Licensing
11 and Regulation. All investigations and all filed complaints
12 relating to the program are transferred without change in status
13 from the General Services Department to the Department of Licensing
14 and Regulation. All General Services Department rules, standards,
15 and specifications relating to the program remain in effect as
16 Department of Licensing and Regulation rules, standards, and
17 specifications unless superseded by proper authority of the
18 Department of Licensing and Regulation.

19 SECTION 9.07. A privately financed building that was
20 constructed on or after January 1, 1978, but before January 1,
21 1992, and that was covered under the architectural barriers law in
22 effect immediately before the effective date of this Act (Article
23 7, State Purchasing and General Services Act (Article 601b,
24 Vernon's Texas Civil Statutes), and rules adopted under that law)
25 remains subject to the prior architectural barriers law and rules
26 until the building is substantially renovated, modified, or
27 altered, and the prior law and rules are continued in effect for

1 this purpose. The Texas Department of Licensing and Regulation
2 shall enforce the prior law and rules under this section, and all
3 enforcement mechanisms available to the department in its
4 enforcement of the architectural barriers law and rules are
5 available to the department in its enforcement of the prior law and
6 rules under this section.

7 SECTION 9.08. (a) A contract that was made before the
8 effective date of this Act to which Chapter 454, Acts of the 65th
9 Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's
10 Texas Civil Statutes), applied is neither void nor voidable solely
11 for a failure to comply with that law's requirements, if the
12 contract was made in compliance with that law either as it was
13 originally enacted in 1977 or as it was amended by Article 98,
14 Chapter 773, Acts of the 66th Legislature, 1979.

15 (b) The changes in law made by Part 5 of this Act relating
16 to consulting, professional, and routine services apply only to a
17 contract or a contract extension, amendment, or renewal made on or
18 after the effective date of this Act. A contract relating to those
19 services that was made before the effective date of this Act is
20 governed by the law in effect at the time the contract was made,
21 except for matters relating to an extension, amendment, or renewal
22 of such a contract on or after the effective date of this Act, and
23 the prior law is continued in effect for this purpose.

24 SECTION 9.09. The General Services Department shall study
25 the benefits of a central state vehicle fleet and other issues
26 related to centralized vehicle services for state government. The
27 department shall develop and recommend an implementation plan as

1 part of the study. The study shall address issues related to the
2 state's vehicle fleet and vehicle services that were addressed by
3 the Texas Performance Review and by the various versions of related
4 legislation that were considered by the 72nd Legislature in first
5 called session, together with other issues that the department
6 considers relevant. The department shall report the findings of
7 its study and its implementation plan to the governor and to the
8 presiding officer of each house of the legislature not later than
9 the date on which the 73rd Legislature convenes in regular session.

10 SECTION 9.10. The first policy statement required to be
11 filed under Section 10(g), Article 601k, Revised Statutes, as added
12 by this Act, must be filed before February 1, 1992.

13 SECTION 9.11. The changes in law made by Subchapter L,
14 Chapter 403, Government Code, as added by this Act, take effect on
15 certification by the comptroller of the implementation of the fixed
16 asset component of the uniform statewide accounting system.

17 SECTION 9.12. (a) Each member of the board of the
18 Department of Information Resources who is serving on the board on
19 the effective date of this Act and who is not a member of the
20 legislature remains a member of the board for the duration of the
21 term for which the person was appointed except as provided by this
22 section. An appointment to fill any remaining vacancy on the board
23 shall be filled in accordance with Section 6, Information Resources
24 Management Act (Article 4413(32j), Revised Statutes), as amended by
25 this Act. If the chairman of the board on the effective date of
26 this Act remains on the board under this section, that person
27 remains chairman unless the governor designates a new chairman.

1 (b) If under Subsection (a) of this section three persons
2 who serve for terms that expire on the same date or three persons
3 who were not appointed from a list submitted by the lieutenant
4 governor or the speaker of the house of representatives would
5 remain on the board of the Department of Information Resources, the
6 affected persons by unanimous agreement or by lot shall determine
7 which two of the affected persons shall remain members of the board
8 under Subsection (a) of this section.

9 (c) As soon as possible after the effective date of this
10 Act, the governor shall appoint the executive director of the
11 Department of Information Resources in accordance with Section 11,
12 Information Resources Management Act (Article 4413(32j), Revised
13 Statutes), as amended by this Act, for a term that expires February
14 1, 1993.

15 (d) The executive director of the Department of Information
16 Resources on the effective date of this Act continues to serve in
17 that capacity until the executive director appointed under this
18 section takes office. This subsection does not prohibit the
19 executive director serving on the effective date of this Act from
20 being appointed under this section.

21 PART 10. EFFECTIVE DATE; EMERGENCY CLAUSE

22 SECTION 10.01. This Act takes effect September 1, 1991,
23 except as otherwise provided by this Act.

24 SECTION 10.02. The importance of this legislation and the
25 crowded condition of the calendars in both houses create an
26 emergency and an imperative public necessity that the
27 constitutional rule requiring bills to be read on three several

1 days in each house be suspended, and this rule is hereby suspended,
2 and that this Act take effect and be in force according to its
3 terms, and it is so enacted.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

August 21, 1991

**TO: Honorable Bill Haley, Chairman
Committee on Administration
Senate Chamber
Austin, Texas**

**IN RE: Senate Bill No. 9,
Second Called Session
By: Barrientos**

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 9, Second Called Session (relating to abolishing the State Purchasing and General Services Commission and creating the General Services Department; to transferring responsibility for architectural barriers programs from the commission to the Texas Department of Licensing and Regulation; to transferring responsibility for personal property accounting from the commission to the comptroller; to travel regulations for state government; to establishing a Texas Office of Personnel Services within the Texas Employment Commission; and to the acquisition and use by the state and by other governmental entities of property and services.) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The State Purchasing and General Services Commission is subject to the provisions of the Texas Sunset Act, and unless continued in existence by the legislature, will be abolished effective September 1, 1991.

The bill would abolish the State Purchasing and General Services Commission, create a new General Services Department under a six member board, and enact a new enabling statute for the department. Some of the more significant changes would include: changing the name of the agency to the General Services Department; establishing a sunset date of September 1, 1993 for the department; defining the composition of the department; defining general powers and duties of the board; requiring the governor to appoint the board and the executive director with the advice and consent of the senate; requiring the chief of capitol security to report directly to the executive director; be exempt from the Position Classification Plan; creating an advisory committee to study the commission's bidding, purchasing and contracting rules and to recommend changes necessary to facilitate contracting with historically underutilized businesses; establishing factors to be used to evaluate proposals for the award of contracts; raising the minimum dollar value of small purchases delegated to state agencies for competitive bidding from \$500 to \$5,000; raising the minimum dollar value for any competitive bidding requirements from \$100 to \$1,000; requiring state agencies making purchases over \$5,000 to solicit bids from all eligible vendors and authorizing agencies to charge fees to vendors for participation in the bid lists; requiring the commission to test and inspect costly purchases; requiring the commission to annually review state agency purchases of routine services; authorizing the commission to extend the deadline for conversion of state vehicles to use alternative fuels and prohibiting the extension beyond specified dates; prohibiting the purchase of electrical items unless the items meet the applicable safety standards of the federal occupational safety and health administration; requiring the commission to allow at least 30 days for firms to prepare for interviews related to construction projects and for firms to prepare bids for construction projects; modifying elements of the competitive cost review program and making the commission subject to the program; modifying the state travel management program; removing requirements that school districts process school bus payments to vendors through the state treasury and abolishing the School Bus Revolving Fund; modifying the conditions and requirements for school districts to lease school buses; transferring the administration of the elimination of architectural barriers program from the commission to the Department of Licensing and Regulation and modifying the elimination of architectural barriers act; making a violation of the elimination of architectural barriers act a violation of the professional engineers and architectural examiners acts; replacing the list of buildings subject to the elimination of architectural barriers act and specifying that buildings included in the definition of "public accommodation" in the federal Americans with Disabilities Act are subject to the statute; requiring the Public Finance Authority to issue, in a timely manner, bond proceeds for projects approved by the legislature; prohibiting a person who receives compensation for preparing specifications or requests for proposals from bidding on the subsequent contract; authorizing the commission to adopt rules to allow a minimum time for conversion of certain vehicles to compressed natural gas or other alternative fuels and defines such vehicles; exempting lease space for a

TDMHMR residential program from being procured through the commission; amending the Education Code to require the commission to purchase motor vehicles for school districts using competitive bidding whenever possible and requiring school districts to competitively bid leases or lease-purchases of school buses for contracts of \$15,000 or more; exempting the foreign offices operated by the Texas Department of Commerce from certain provisions of the State Purchasing and General Services Act; authorizing the removal of a vendor from the commission's bidder list for up to one year if the commission receives repealed complaints about the vendor; authorizing institutions of higher education to contract for energy conservation improvements to facilities and requiring cost recovery through savings within 10 years; creating a new consultant services act and abolishing the existing law regarding use of private consultants by state agencies; require the state to purchase the Texas Employment Commission building; transferring the state property accounting system from the commission to the Comptroller of Public Accounts; allow purchase of a chair used by an elected or appointed officer, executive head of an agency within the legislature, and judicial departments for its fair market value; changing the conflict-of-interest provisions in the purchasing law; changing the maximum horsepower limit for purchase of state vehicles that can be purchased by the commission; changing the requirements for state agencies to purchase prison-made items; requiring the commission to give preference under certain conditions to products made from recycled materials; establishing process for naming new state buildings; modifying existing requirements for state agencies and political subdivision purchasing prison-made goods; and creating new general travel regulations for state employees; creating the Texas Office of Personnel Services (TOPS) in the Texas Employment Commission; amending the Position Classification Act and the Texas Incentive and Productivity Act.

The bill would also amend the Information Resources Management Act. Some of the more significant changes to this act include: removing legislative members from the board; defining conflicts of interests; requiring the department to focus on matters involving relatively large amounts of money; requiring the governor, with the advice and consent of the senate, to appoint the executive director; requiring the department to develop a disaster recovery plan for state agency information resources; adding a provision regarding state agency participation in a program of shared use of information resources; requiring plans submitted by state agencies to include an analysis of the benefits of interagency contracting or privatization; authorizing the department to conduct a comparative cost review on information technology projects and to certify the cost effectiveness and validity of the projects; establishing a process for procuring information resources technology services; prohibiting certain activities of state agencies relating to the purchase of information technologies; establishing an information resources technology evaluation center; requiring that each agency's annual performance include a competitive cost review of its information resources activities; modifying the composition of the Emergency Management Council; requiring the department to focus its oversight efforts on matters involving relatively large amounts of money; authorizing public universities to provide TEX-AN telecommunications services to students in university housing.

The bill would create a new information resources services act relating to purchasing requirements for these services which would place primary responsibility for administration with the DIR and joint rule making with the DIR, the governor and the comptroller; remove any application of the consulting services or professional services statutes to information resources technologies consulting services; and require the Governor to issue finding of need for proposed contracts, and authorize the Governor to waive procedural requirements in emergencies.

The amount set forth for the administration of this agency in the General Appropriation Bill for fiscal year 1992 is \$56,306,431. Pursuant to Rider 26, H.B. 1, Seventy-second Legislature, First Called Session, no funds are appropriated for fiscal year 1993 because the funding for FY93 was contingent upon passage of H.B. 78, Seventy-second Legislature, First Called Session which did not pass. The appropriations would be financed from General Revenue, State Parking Fund No. 125, statutory or rider appropriations, Telecommunications Revolving Account, and estimated Parking Fines.

The bill would raise the statutory minimum dollar value of small purchases delegated to state agencies from \$500 to \$5,000. This change would allow agencies to make all purchases under \$5,000 without submitting them to the commission for bidding. Although state agencies may have some increased workload in obtaining bids on purchases now going through the commission, it is assumed that reduced involvement with the commission would offset it.

The bill would raise the minimum statutory dollar value of small purchases that do not require any type of competitive bidding from \$100 to \$1,000. Agencies are currently required to obtain at

least three informal bids before making purchases valued between \$250 and \$1,000. It is assumed that the cost of the 98,000 small purchases made annually by all state agencies would increase by approximately 10 percent, or \$2,660,000 per year. However, adequate information is not available to estimate specifically how the increased cost would impact individual agencies or funds. In addition, a significant amount of administrative work related to these purchases would be eliminated, equivalent to approximately 49 purchaser positions throughout state government (totaling \$1.5 million annually). However, the extent to which individual state agencies would actually eliminate positions as a result of the work reduction cannot be estimated.

The bill would authorize public institutions of higher education to provide TEX-AN long distance telephone services to public college and university students in university housing, and would require the commission to develop rules on conditions of access and cost recovery from student users. Currently, TEX-AN is not available to students in state colleges and universities. It is estimated that this change could result in \$2,040,000 of additional revenue to the TEX-AN system in 1992 and could increase to \$2,479,632 by 1996. The added revenue would result in a corresponding reduction in charges to all current users of the system. The savings would affect general revenue and other funds.

The bill would require state agencies to solicit bids from all eligible vendors that have applied to agencies' bid lists for purchases that are not required to be processed through the commission and that are over \$5,000. The bill would also require state agencies to develop procedures for maintaining bid lists and would authorize agencies to charge cost recovery fees for participation on the lists. Currently, state agencies are only required to get at least 3 bids before making such purchases. Any additional costs to agencies would be minimal and would be recovered through fees. Savings could result from this change but cannot be estimated at this time.

The bill would require certain state agencies in the executive branch and certain judicial agencies to participate in contracted travel rates (e.g. airfares, hotel, rental cars) and all travel agency services.

The bill would authorize administrative penalties to be levied against violators of the elimination of architectural barriers statute and related rules. It is assumed that this recommendation would result in revenue gains to the General Revenue Fund; however, an estimate of these revenue gains cannot be determined at this time.

The bill requires all buildings covered by the architectural barriers statute to provide rest room facilities to conform to the Uniform Plumbing Code. This change would increase the department's workload by requiring it to monitor compliance with Appendix C standards. The cost associated with this provision cannot be estimated because the degree to which the department's workload would be increased cannot be determined. Also, it is unclear if or how this change would impact state and local governments whose buildings must comply with the architectural barriers statute.

The bill would create the Texas Office of Personnel Services (TOPS) in the Texas Employment Commission effective September 1, 1992. TOPS would be responsible for training, counseling, and administration of the Position Classification Plan. Based on comparisons with other state that have a central personnel office, the average cost of these offices is \$153.79 per employee. Currently, there are 108,000 classified state employees currently under the classification plan. Assuming the average cost per employee for other states would apply to TOPS, the total cost for both centralized and agency operations would be approximately \$16,524,000. This amount would be substantially offset by the current costs of agencies' personnel operations. However, comparable costs of current agency personnel operations cannot be estimated at this time.

The bill requires the commission to charge fees to state agencies that are housed in state-owned or leased space or that use the commission's leasing, management, maintenance, or other similar services. Such expenses, now in the commission's budget, would be appropriated to agencies and recovered by the commission through fees. The Texas Performance Review recommended that the commission activate an adequate preventative and deferred maintenance program in conjunction with its service fees for state-owned and leased space. The costs for the expanded maintenance program are in the figures below. Overall savings to the state are expected. Agencies are expected to become more prudent in their use of space when they begin being billed directly for it. However, no specific estimate of the overall savings can be made at this time.

The probable fiscal implications from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Savings/(Costs) to the General Revenue Fund</u>	<u>Probable Revenue Gain to the General Revenue Fund</u>	<u>Probable Savings to Other Fund</u>	<u>Change in Number of State Employees from FY 1991</u>
1992	\$ (9,397,888)	\$ 304,973	\$ 3,225,000	8
1993	2,225,868	725,087	4,300,000	7
1994	2,225,868	725,087	5,400,000	7
1995	2,225,868	725,087	6,400,000	7
1996	2,225,868	725,087	7,469,000	7

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

Three provisions of the bill would also affect units of local government. Local governments would be required to pay fees associated with buildings they own that are subject to the elimination of architectural barriers statute and would be subject to fines for violations of the act. The bill would require that any contract valued at \$10,000 or more by a public school board for the lease or lease-purchase of school buses shall be competitively bid whenever possible. Under current law competitive bidding for such contracts is not required. While competitive bidding on lease contracts may result in savings to school districts, no estimate of the savings can be made at this time. The bill would require the commission to purchase motor vehicles, primarily school buses, for school districts using competitive bidding whenever possible and requires school districts to competitively bid lease or lease-purchase of school buses for contracts of \$10,000 or more. However, an estimate of the fiscal impact of these changes on local governments cannot be determined.

Source: Sunset Advisory Commission; State Purchasing and General Services Commission;
Comptroller of Public Accounts; Texas Performance Review;
LBB Staff: JO, JWH, DF, EC, LS, PA

TAG FORM

RECEIVED
SECRETARY OF SENATE

91 AUG 20 11:23

Aug *Aug. 20 1991*
Austin, Texas

Date

To the Chairman of the Committee on

Administration

Pursuant to Senate Rule 11.20, I hereby request 48 hours advance notice in writing of the time and place of the hearing on *S* B. No. *9*.

Amis

Give the original of this form to Calendar Clerk for placement on the bill, give one copy to the Secretary of the Senate's office, and one copy to the Chairman of the committee to which the bill was referred.

A BILL TO BE ENTITLED

AN ACT:

relating to abolishing the State Purchasing and General Services Commission and creating the General Services Department; to transferring responsibility for architectural barriers programs from the commission to the Texas Department of Licensing and Regulation; to transferring responsibility for personal property accounting from the commission to the comptroller; to travel regulations for state government; to establishing a Texas Office of Personnel Services within the Texas Employment Commission; and to the acquisition and use by the state and by other governmental entities of property and services.

8-16-91AUG 19 1991

Filed with the Secretary of the Senate

Read and referred to Committee on ADMINISTRATION

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ naysRead second time, _____, and ordered engrossed by: { unanimous consent
a viva voce vote
_____ yeas, _____ nays

Caption ordered amended to conform to the body of the bill.

Senate and Constitutional 3 Day Rule suspended by a vote of _____ yeas, _____ nays.

Read third time, _____, and passed by: { A viva voce vote
_____ yeas, _____ nays_____
SECRETARY OF THE SENATE

OTHER ACTION:

Engrossed_____
Sent to House

Engrossing Clerk _____

Received from the Senate_____
Read first time and referred to Committee on __________
Reported favorably amended, sent to Printer at __________
Printed and Distributed __________
Sent to Committee on Calendars __________
Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of _____ yeas, _____ nays _____ present not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays _____ present not voting._____
Read third time (amended): finally passed (failed) by a (Non-Record Vote) Record Vote of
_____ yeas, _____ nays _____ present not voting._____
Caption ordered amended to conform to body of bill._____
Returned to Senate._____
CHIEF CLERK OF THE HOUSE_____
Returned from House without amendment._____
Returned from House with _____ amendments._____
Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by: _____

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

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